

END OF CONTRACT REPORT

USAID/Booz·Allen & Hamilton Project to Develop Land and Real Estate Markets in Moldova

Task Order No. OUT-EPE-I-800-95-00058-00

Contract Start Date: September 20, 1998

Contract End Date: December 31, 2000

USAID/Chisinau CTO: Ken Lyvers

USAID/Kyiv RCO: Bruce Gelband

USAID/DC OMNI II "A" CO: Theresa Pollitt

Report Date: December 31, 2000

Report Prepared by: Steve Dobrilovic and Robert Mitchell, BA&H

Report Submitted by:

Booz·Allen & Hamilton
8283 Greensboro Drive
McLean, Virginia 22102

Contact Person:

Norm Kirsch, Program Manager, BA&H

Telephone: (703) 902-5896

Fax: (703) 917-2379

Email: kirsch_norm@bah.com

TABLE OF CONTENTS

<i>END OF CONTRACT REPORT SECTION</i>	<i>PAGE</i>
I. EXECUTIVE SUMMARY	1
II. OVERVIEW OF PROJECT	3
III. ACCOMPLISHMENTS AND MAJOR DELIVERABLES	7
IV. COMPLETED TASKS	9
V. MAJOR ISSUES	
A. Agricultural Land Titling and Registration	16
B. Mass Registration in the Real Estate Registries	33
C. Legal Problem Solving Teams	36
D. Enterprise Land Sales	40
E. Private Land and Real Estate Sales	48
F. Mortgage Credit Programs	55
G. Land Issues Related to Energy Sector Privatization	61
H. “Farmer’s Hour” Publication	63
I. Development of Private Sector Survey and Real Estate Firms	66
J. Other Legal and Regulatory Initiatives	69
VI. FUTURE ACTIVITIES	75
VII. MATRIX OF LESSONS LEARNED AND RECOMMENDATIONS	76

<i>APPENDICES</i>	<i>BOOK</i>
1. Land title, Land Arrangement Project map, village land registry, BA&H internal farm file, and final survey and titling file prepared by survey firm	1
2. Manual on selling, buying, and leasing agricultural land, and pamphlet “Sale and Purchase of Agricultural Land: Nine Questions and Answers” (English and Romanian)	2
3. Private survey firm tender criteria	2
4. List of private survey firms that worked on National Land Program	2
5. Agreement for sale of equipment to private survey firms	2
6. Organizational chart for BA&H agricultural land titling team	2
7. Original plan for the break-up and privatization of land and assets on 550 collective farms	2
8. Contract for participation in the Moldovan National Land Program	2
9. BA&H commentaries to legislation and normative acts	2
10. Instruction on preparation of Land Arrangement Project maps and preparation of title certificates	2
11. Training brochure on grouping and arranging (English and Romanian)	2

12. National Cadastre Agency complaint letter to Moldovan Vice Prime Minister, and BA&H response	2
13. Memo to USAID explaining lack of clarity in land allocation process due to passage of Law on Local Public Authority	2
14. Memorandum of Understanding on Mass Registration	2
15. Totals for mass registration	2
16. Map showing location of Problem Solving Team Offices, and short biographies on original team members	2
17. Sample articles written about the work of the BA&H Problem Solving Teams	2
18. Copy of an enterprise land title	2
19. Enterprise land sales reference manual	2
20. Enterprise land sales billing statements	2
21. Contract for services with private real estate firms (brokers)	2
22. July 2000 survey of enterprises that privatized their land	2
23. BA&H reports to USAID on accelerating privatization of enterprise land	2
24. Private land and real estate sales reference manual	3
25. Sample articles written by the BA&H team regarding abuses by notaries	3
26. Copy of letter to Prime Minister from international donors regarding notary abuses, and BA&H memo to donors explaining these abuses	3
27. Commercial bank mortgage loan reference manual	3
28. FinCom Bank internal instructions on mortgage lending	3
29. Savings and Credit Association mortgage credit reference manual	3
30. BA&H report to USAID on legal issues related land during privatization of energy sector enterprises	3
31. Copies of land titles prepared by BA&H for energy sector enterprises	3
32. English-language copies of monthly newsletters printed by BA&H	3
33. “Farmer’s Hour” publication business plan	3
34. “Farmer’s Hour” publication advertising information	3
35. “Farmer’s Hour” publication marketing and promotional materials	3
36. Contract for land titling services with private survey firms	3
37. Private real estate firm billing statements	3
38. Samples of BA&H legal initiatives, commentaries, and draft normative acts	3

I. EXECUTIVE SUMMARY

The Booz-Allen and Hamilton (BA&H) team successfully implemented the USAID Task Order in Support of the National Land Titling and Registration Program and Nationwide Dissemination of the Enterprise Land Sales Methodology in the Republic of Moldova (“National Land Program” or “the Project,” Contract EPE-I-00-95-00058-00, Task Order OUT-EPE-I-800-95-00058-00). BA&H met each of the goals set by USAID for the Project, completing all deliverables established in the Project Scope of Work, and initiating new activities that USAID did not anticipate in 1995 when the first phase of USAID-supported land privatization and land market development work in Moldova began. The activities of the BA&H team produced positive reforms in Moldova, including many nationwide reforms. The Project’s main areas of substantive work were agricultural land privatization; enterprise land privatization; development of the private real estate market; legal and regulatory reform; and, public education.

The BA&H team privatized nearly 100 percent of the agricultural land previously used by the 901 collective farms participating in the Moldovan National Land Program. This privatization required BA&H consultants to survey over 1.5 million hectares of land; create over 2.4 million land parcels; prepare separate ownership titles for such parcels for over 780,000 new landowners; and, legally register each owner in the village land registry. The team helped establish over 50 private survey firms to complete this work. BA&H also assisted village mayors to distribute the land ownership titles to each new landowner. The BA&H team initiated new activities by beginning a mass registration program that systematically transferred information on rights to agricultural land parcels from the village land registries to the new regional Real Estate Registries maintained by the Territorial Cadastre Offices.

During this third phase of USAID-supported land market development work, the BA&H team assisted 1,564 enterprises in privatizing 1,891 parcels of associated land through the Enterprise Land Sales Program, generating some 3.5 million USD for State and local budgets. The team compensated consultants on a commission basis (modeled after private sector real estate brokerages) to motivate them to work aggressively to promote land privatization. The consultants implemented the simplified process for enterprise land privatization throughout Moldova at a time when local officials were hesitant to sell State-owned land.

The BA&H team helped landowners to carry out the first known sales of privately owned land in Moldova. The team assisted private individuals and enterprises complete 3,506 transactions, in which they sold or exchanged their agricultural, residential, or enterprise land. BA&H consultants established the procedures for sale and purchase transactions, as well as procedures for the exchange of agricultural land. BA&H initiated new activities in mortgage lending, encouraging and assisting Moldovan commercial banks and rural Savings and Credit Associations to make affordable medium-term loans available to farmers willing to purchase land and invest in their farming operations.

The BA&H team successfully reformed laws and regulations governing land privatization and land market relations. The team reviewed and commented upon nearly every amendment to legislation or other normative acts relating to land relations and land tenure in Moldova. The team also prepared commentaries on many laws related to land issues, such as laws on

agricultural development, real estate tax policy, and economic subsidies to farmers. BA&H lawyers drafted position papers on land policy that the BA&H team provided to the Ministry of Economy and Reforms; the National Agency for Cadastre, Land Resources and Geodesy (National Cadastre Agency); the Office of the Moldovan President; and Parliamentarians. The BA&H team also provided policy recommendations to the World Bank and International Monetary Fund, including several recommendations that became conditions of loan agreements signed by the Government of Moldova.

Finally, the BA&H team initiated extensive public education activities to promote all aspects of land reform. The team's main vehicle for public education was the "Farmer's Hour" publication, a national publication not affiliated with any political party. "Farmer's Hour" offers information to rural landowners, farmers, and agribusiness entrepreneurs on issues related to land rights, agricultural economics, credit, and farm technology. The publication prints 30,000 copies each month and is distributed directly to subscribers living in more than 1,000 rural Moldovan villages. The BA&H team also drafted pamphlets, brochures, and manuals, which the team distributed to new landowners, local officials, donor projects, and farmer associations. The team placed articles and reports regarding reforms and real estate market development in national print, television, and radio media.

BA&H's dedicated team of professionals, both Moldovan and expatriate, worked together to implement the Project and make it successful. The success of the Project is historic: Moldova is among the first of the former Soviet republics to implement mass-scale land privatization and to develop a functioning real estate market.

II. OVERVIEW OF PROJECT

The USAID Task Order in Support of the National Land Titling and Registration Program and Nationwide Dissemination of the Enterprise Land Sales Methodology in the Republic of Moldova (“National Land Program” or “the Project,” Contract EPE-I-00-95-00058-00, Task Order OUT-EPE-I-800-95-00058-00), implemented by Booz-Allen & Hamilton and its team of subcontractors (Rural Development Institute and Stewart Information International), was a multi-faceted project engaged in land privatization and land market development that constituted the third phase of USAID’s land reform activities in Moldova. USAID and BA&H began their land reform activities in Moldova in the Pilot Project to Develop Land and Real Estate Markets in Moldova (“Pilot Project,” Contract Number EPE-0014-1-00-5071-00, Task Order Number 4), which lasted from November 1995 through May 1997. These efforts continued in the Roll-Out of the Moldova Land and Real Estate Markets Pilot Program (“Roll-Out Program,” Contract Number EPE-I-06-97-00071, Task Order Number 6), which lasted from June 1997 through February 1999, overlapping by several months with the National Land Project. All three phases of USAID/BA&H land reform activity influenced the underlying legal and regulatory basis for nearly all land-related issues in Moldova from 1995 through 2000. Under the most recent phase, which began in October 1998, the Booz-Allen & Hamilton (BA&H) team: (i) privatized nearly all the agricultural land of former collective farms and a substantial portion of the enterprise land in the country; (ii) contributed significantly to establishment of a viable market for private land; (iii) established and tested the procedures for mortgage lending; (iv) protected the rights of new landowners from abuses perpetrated by more powerful individuals; and, (v) initiated an extensive public information campaign on issues related to land privatization and land rights, which included the establishment of a national publication addressing rural and agricultural issues that is distributed in nearly all rural communities in Moldova. The five areas of substantive work, and a background on BA&H activities in each area, are described below.

1. Moldovan “National Land Program” to Privatize Agricultural Land

The goal of the Moldovan “National Land Program” was to break-up and privatize all collective farms¹ in Moldova by transferring ownership of the land and production assets of the collective to eligible members of the collective. The stimulus for the National Program was USAID’s successful two-stage pilot privatization program. The first stage of the pilot program, also known as the Pilot Project, began in December 1996, with the BA&H team assisting East West Management Institute (EWMI) and the Ministry of Privatization to break-up and privatize the “Maiaș” collective farm located in the Nisporeni region. BA&H’s role was to subdivide the land of the collective farm, prepare land titles, and legally register those titles, thus transferring ownership of the land from the State to some 1,400 members of the farm. Each eligible farm member received title to one or more clearly identified parcels of land. The President-elect at that time, Mr. Petru Luchinschi, participated in a ceremony to issue titles to the new landowners, signifying the new Government’s intent to fully support land reform in Moldova.

¹ Prior to the start of USAID-sponsored land privatization activities in 1995, nearly all collective farms had been converted into some other form of legal entity (e.g., joint-stock company, production cooperative, etc.). Nevertheless, in practice, nearly all of these farms continued to operate as collective farms, and they are referred to as such in the text of the report.

The historic ceremony at "Maiac," believed to be the first of its kind in the former Soviet Union, led to the second stage of USAID-supported land reform activities, known as the Roll-Out Program, which began in April 1997. In that stage, BA&H implemented a limited "roll-out" of the initial land privatization and titling methodology on 72 collective farms, expanding the privatization process to nearly every region of Moldova. The Roll-Out Program tested the break-up methodology throughout Moldova, and established a decentralized mechanism for creating parcels, allocating land into ownership, and issuing land titles. The mechanism accomplished these tasks quickly and efficiently, at a cost of approximately 2.25 USD per parcel.

The Roll-Out Program's success in transferring the responsibility for parcel creation and issuance of land titles from the central Government in Chisinau to the offices of village mayors ("primarias") helped to persuade the Government of Moldova to announce the start of a National Land Program in March 1998.

Under the National Land Program Scope of Work, USAID asked BA&H to assist the Ministry of Economy and Reforms and the Department of Privatization to privatize the land of an estimated 890 collective farms that were likely to enter the National Land Program. BA&H estimated that it would need to work with at least 50 private survey firms to privatize, title, and register the land of all collective farms, and that it would need to prepare two to three million land titles for up to one million farm members. BA&H needed to survey the land; group and arrange the parcels of farm members in the field; create new parcels; prepare maps showing the new land parcels ("Land Arrangement Project maps"); prepare separate land title certificates for each parcel; and, prepare the village registry of landowners. **Appendix One** shows examples of a land title; a Land Arrangement Project map; a page from the village land registry; the BA&H team's internal file for a farm; and, a final file prepared by a survey firm that includes all supporting documentation for the privatization work completed on a farm.

As the National Land Program progressed, BA&H assisted mayors in delivering titles to new landowners. BA&H also undertook a program of "mass registration," in which rights to all newly established agricultural land parcels are systematically transferred from the village land registries to the new regional Real Estate Registries maintained by the Territorial Cadastre Offices.

EWMI's role in the National Land Program involved privatizing and distributing assets of the farm, including moveable property; restructuring the collective farm enterprises; and, restructuring and liquidating debts of the collective farms.

2. Enterprise Land Sales

Privatization of enterprise land in Moldova was a primary concern of USAID from the beginning of the USAID/BA&H Pilot Project in 1995. The Moldovan Government's adoption of Government Decision No. 562 "On Approving the Regulation on Sale and Purchase of Enterprise Land"² in October 1996 established the legal framework under which the State

² The official name of the regulation is "Regulation on Sale and Purchase of Land Associated with Privatized Objects and Objects Subject to Privatization."

privatized land associated with privatized enterprises.³ Although Government Decision No. 562 established a simplified process for eligible enterprises to purchase their associated land from the State, enterprises still did not privatize their land because the purchase price established by the Law on Normative Price remained unaffordable. Under the Law, all enterprise land was priced at nearly 150,000 USD per hectare, regardless of location.⁴ After extensive lobbying by BA&H and foreign donor organizations, in May 1997 the Parliament passed an amendment to the Law on Normative Price lowering the price of enterprise land, but only enough to make it financially feasible for a small percentage of privatized enterprises to purchase their land. The first enterprise land sale occurred in July 1997, with the BA&H team assisting in a total of 471 privatization sales by September 1998.

As the Project began in October 1998, further normative price reductions and additional legal and regulatory amendments were needed to continue the initial successes in enterprise land privatization. The Project Scope of Work required BA&H to assist a cumulative total of 1,800 enterprises in privatizing their associated land and to simplify further the legal process for land sales.

3. Development of the Market for Private Land and Real Estate

USAID's activities in the privatization of enterprise and agricultural land in 1997 - 1998 established a substantial number of new private landowners. These owners formed the basis for the fledgling market for private land and real estate. The Project Scope of Work required the BA&H team to assist private owners in completing a total of 1,500 private real estate sales; to work on the legal framework to simplify procedures for the transfer of real estate; and, to begin establishing a private sector capable of serving the public's real estate needs.

Growing public interest in the trading of land prompted USAID to acknowledge the need for mortgage credit, and USAID authorized the BA&H team to work on developing mortgage credit, especially credit for the purchase of agricultural land.

4. Legal and Regulatory Environment

During 1996 and 1997, the BA&H team helped establish a fragile legal and regulatory framework that allowed mass privatization of agricultural land and regular sales of enterprise land to occur. Opponents of privatization constantly challenged these procedures and legal standards, requiring the BA&H legal team actively to monitor all proposed amendments to laws, regulations and Government Decisions. Opponents were typically local public officials; middle- and lower-level bureaucrats at the Ministry of Agriculture and the National Agency for Cadastre, Land Resources, and Geodesy (National Cadastre Agency); members of the State survey institute "Moldgiprozem"; and, farm leaders who were formerly collective farm managers. In most cases, the opposition of these groups was not ideological, but rather motivated to protect corrupt

³ A privatized enterprise is one that was originally owned by the State. The State transferred ownership, either full or partial, to the enterprise's workers during the mass privatization program in 1994 - 1995.

⁴ The Parliament established the price based on the rationale that all Moldovan land is agricultural, and that purchase of land for other than agricultural purposes required the buyer to compensate the State for 99 years' worth of lost agricultural profits from the land.

mechanisms designed for self-serving economic gain. The Project Scope of Work directed BA&H to continue monitoring the legal framework and to advance the legal gains made in the previous years.

In response to increasing reports of coercion in the privatization process, USAID authorized BA&H to establish regional Problem Solving Teams. The priority of the teams was to assist new landowners in learning about and defending their legal rights against more powerful and influential local officials and farm leaders, many of whom refused to respect the rights of new landowners during and after privatization. The Problem Solving Teams also helped private surveyors to resolve problems that caused lengthy delays in the completion of privatization and created tension in the village community.

5. Public Education

Since the inception of the Pilot Project in 1995, USAID believed that public education was a critical component necessary to implement meaningful market-oriented reform. USAID understood that information was scarce in rural areas of Moldova, and thus, stressed public education in the Project Scope of Work. USAID authorized BA&H to continue its support for a national publication that educated the rural public about land rights, legislative changes, and legal procedures for privatization. USAID expected locally oriented education campaigns to create an environment where grass-roots outcries against abuse and obstruction by local officials and farm leaders would propel reform, which otherwise might stall and die out. USAID encouraged BA&H to continue using a number of tools to successfully promote land reform in Moldova, including mass media contacts; monthly publications; informational and educational materials; press conferences and titling ceremonies; and, public meetings and national conferences. These tools allowed the BA&H team to distribute information on legal amendments, successes in privatization, and illegal activities and abuses all across Moldova.

III. ACCOMPLISHMENTS AND MAJOR DELIVERABLES

- Successfully accomplished all ten tasks and met all contract deliverables defined in the USAID Project Scope of Work.
- Designed a decentralized organizational structure to work with village mayors to implement the Moldovan National Land Program and complete land privatization on nearly all former collective farms in the country.
- Helped to create a private real estate service sector by supporting the establishment of over 50 private survey firms employing some 500 individuals, and contracting with those firms to complete all land privatization work using an eight-step scope of work at a per parcel cost of approximately 2.25 USD.
- Completed land surveying, parceling and titling for 886 former collective farms in Moldova, which required the preparation and distribution to village mayors of 2,412,296 titles to agricultural land for 783,051 former members of the collective farms, including 189,645 independent farmers.
- Assisted 1,564 enterprises in privatizing 1,891 parcels of associated land, resulting in the payment of nearly 3.5 million USD to State and local budgets. The surface area of the land privatized exceeds 876 hectares. Including the 471 enterprises that privatized their land during the first two phases of USAID-supported land reform activities, BA&H assisted a cumulative total of 2,035 enterprises in privatizing their land.
- Assisted private individuals and enterprises in completing 3,497 transactions for the sale of 4,234 parcels of privately owned agricultural, residential, and enterprise land. Assisted owners of agricultural land in completing nine exchange transactions for 37 parcels of such land, establishing a procedure for exchange transactions that had previously never been used in Moldova.
- Helped to create a private real estate service sector by establishing and training four private real estate consulting firms that assist private individuals and enterprises in completing private sales of agricultural, residential, and enterprise land, as well as exchanges of agricultural land, ensuring that each land parcel transferred to a private party was properly registered in the relevant regional Real Estate Registry.
- Initiated two mortgage loan programs to support the development of the real estate market in Moldova. One program assisted two commercial banks in making 30 mortgage loans worth 274,000 USD to operators of small- and medium-size farmers and agribusiness entrepreneurs, helping borrowers to purchase 360 hectares of agricultural land. The other program assisted six rural Savings and Credit Associations in processing 31 small loans worth a total of 43,000 USD to farmers to purchase a total of 100 hectares of agricultural land, all in tracts of less than four hectares.

- Established ten legal Problem Solving Teams to help new landowners resolve conflicts with farm leaders, local public authorities, and land commissions during and after land privatization. From April to December 2000, the teams helped resolve 1,727 disputes involving over 50,000 new landowners.
- Started the “Farmer’s Hour” monthly publication to provide the only source of regular and reliable information in rural areas regarding agricultural and other issues relevant to the rural public, new landowners, farmers, and agribusiness entrepreneurs. “Farmer’s Hour” is independent and not affiliated with any political party, offering a neutral view on the issues that concern its readers. The publication has a monthly subscriber base of over 23,000 individual readers and a circulation of 30,000 copies.
- Assisted the Ministry of Economy and Reforms, the National Cadastre Agency, and the Department of Privatization to comment on draft laws and regulations; to prepare position papers on proposed Government policy initiatives; and, to draft normative acts to promote land privatization and the development of the market for privately owned real estate. BA&H legal initiatives eliminated many duplicative or unnecessary procedures that obstructed real estate transactions.
- Assisted the Territorial Cadastre Offices in mass-registering ownership of one million land parcels, by systematically transferring the rights to agricultural land parcels privatized during the National Land Program from the village land registries to the regional Real Estate Registries. This number of parcels represents the systematic re-registration of land rights in 65 percent of the villages that completed privatization of land during the National Land Program.
- Prepared a comprehensive analysis of the legal basis for privatization of land associated with Moldovan energy sector companies and prepared land “use” titles for 62 land parcels associated with such companies, resolving a number of political and bureaucratic problems with local officials in the process.
- Developed a strategy, for possible future implementation by USAID, designed to increase the volume of enterprise land sales by reducing the price charged by the State for initial privatization of the land, drawing upon the experience of the USAID/BA&H Urban/Industrial Land Privatization Project in the Republic of Georgia.

IV. COMPLETED TASKS

Task No. 1. Design and implementation of the organizational structure to support the National Land Privatization and Titling Program.

USAID asked the BA&H team and EWMI to implement the Moldovan National Land Program, which envisioned the break-up of all collective farms in Moldova. BA&H was responsible for the titling and registration of land to members of the farms, and EWMI was responsible for distributing critical property necessary to cultivate the land.⁵ BA&H designed an organizational structure based upon an extensive decentralized network of private surveyors, a specially trained local staff, and a cooperative approach with village officials and farm leaders.

BA&H employed over 50 private survey firms to complete land surveying, parceling, titling, and registration on the basis of contracts that specified the work necessary to complete the legal process of land privatization. The contract separated the work into eight tasks, each having a defined deliverable. The BA&H public education team worked with village officials to ensure their cooperation during privatization, and conducted an information campaign to teach farm leaders and eligible members about the process of privatization. This work minimized delays in parcel creation, title issuance, and registration of rights.

Finally, BA&H structured its farm privatization staff on the basis of specialized teams, each assigned to supervise, assist, and support the private survey firms in completing their tasks under the contract. For example, BA&H hired a team of cadastral engineers (individuals trained in land surveying and land subdivision) to review and approve the surveys, cartographic maps, and land subdivision materials produced by the private survey firms. A team of lawyers reviewed all legal decisions adopted by the village mayor and provided support to resolve political problems with other local officials. A team of information technology specialists worked with the private survey firms to coordinate the large quantities of data involved in the privatization process, making the data compatible with software applications used to accelerate the privatization process. BA&H computer hardware specialists assisted the private firms to keep all hardware in good working order to reduce delays attributable to equipment malfunction. This internal organization enabled BA&H to accurately review and approve the work product on each step in the land privatization process before paying the private firms.

Task No. 2. Expansion of the private surveyor network.

To implement the Moldovan National Land Program, BA&H needed to increase the capacity of the private sector to perform land surveying and titling activities. BA&H estimated that it needed to contract with no less than 50 firms; thus, in 1998, BA&H conducted an open tender to attract private sector survey firms to work on land privatization. BA&H applied stringent selection criteria that focused on a survey firm's experience in land subdivision and its ability to complete work without errors or controversy. As a result of the tender, BA&H selected 50

⁵ Initially in 1998, USAID committed to fund the privatization of the land of 550 collective farms. After the BA&H team proved its ability to successfully implement the program on a large scale, USAID agreed with the Moldovan Government to fund land privatization on all collective farms.

private survey firms (including ten firms that worked with BA&H on the Pilot Project) to work on the National Land Program.

BA&H offered the private firms financial support; technical assistance; free training and maintenance on computer hardware and software; discounts on computer workstations and electronic surveying equipment; and, assistance in avoiding political and bureaucratic obstructions during the process of land privatization. The BA&H team established a regional land titling center where surveyors could receive computer training; print maps and title certificates; and, obtain advice on general business-planning issues. BA&H consultants traveled extensively on-site to assist private firm employees in solving political problems with village mayors and other local officials, and to avoid misunderstandings with farm leaders and eligible members. Without this extensive support, it is unlikely that the private survey firms could have completed their work on the National Land Program in 27 months.

An additional factor that motivated the private survey firms to complete work quickly was the structure of the BA&H contract for services. The contract specified payment in installments, each of which was paid after the private survey firm completed one of the eight tasks in the contract. Payment for services was back-loaded; the final payment was 30 percent of the contract's value, motivating the survey firms to complete all steps in the land privatization process, not just the easiest steps that involved land surveying.

Task No. 3. Implementation of the land parceling and titling methodology (to include 890 or more collective and state farms and an additional 175,000 independent farmers).

In support of the Moldovan National Land Program, USAID financed land privatization and titling work on 901 former collective farms and groups of independent farmers who previously withdrew from collective farms. As of December 31, 2000, the BA&H team supervised the private survey firms as they completed the following work:

- Land survey work on 901 farms.
- Preparation of base maps needed to begin land distribution tenders on 901 farms.
- Grouping and arranging of landowners by field (the most difficult step in the entire process) on 895 farms.
- Creation of parcels, submission of final Land Arrangement Project maps, and issuance of title certificates to village mayors on 886 farms.
- Preparation of 2,412,296 land titles for 783,051 individual owners, representing 96.65 percent of all eligible members on the former collective farms that entered the program. The land titles have been given to village mayors to sign and distribute to new owners. Of the 783,051 individuals who received ownership of land, 189,645 were "independent farmers" who previously withdrew from the collective farms and have cultivated land individually for some time.

- Assisted village mayors in distributing signed land titles to 1,511,113 private landowners, which represents 80 percent of the landowners to which BA&H consultants agreed to deliver titles under the National Land Program. (Despite the fact that the distribution of signed land titles is the responsibility of the village mayors under Moldovan law, USAID and BA&H agreed to attempt to deliver titles to 1,881,435 new landowners.)

Task No. 4. Expand organizational structure to support a national Enterprise Land Sales Program.

In 1998, BA&H expanded its organizational structure by creating a network of regional sales consultants to allow the Enterprise Land Sales Program to reach all areas of the country. BA&H hired over 75 regional consultants to assist enterprises in privatizing their associated land. BA&H senior consultants supervised the regional consultants, and conducted training through seminars and assistance with actual land privatization sales. The BA&H team drafted a privatization reference manual for the regional consultants that describes the enterprise land sales process in detail; cites relevant laws applicable to land privatization; and, provides sample land sales forms. The manual also includes strategies for dealing with local officials and for solving typical bureaucratic problems that arise during privatization of land. BA&H paid its regional consultants a commission for each transaction registered in the regional Real Estate Registries maintained by the Territorial Cadastre Offices. This compensation plan allowed BA&H to expand and decentralize its organizational structure, serving the entire country with a small budget.

Task No. 5. Nationwide dissemination of the enterprise land sales methodology.

BA&H used its network of regional consultants to implement the legally recognized methodology for enterprise land privatization defined in Government Decision No. 562 “On Approving the Regulation on Sale and Purchase of Enterprise Land.” Nationwide testing of the methodology resulted in sales of enterprise land in every region of the country. BA&H regional consultants met individually with enterprise managers to explain the benefits of land privatization, and held regional seminars to educate enterprise managers, mayors, and other local officials regarding the process of land privatization. Consultants also widely distributed educational materials, including pamphlets explaining the privatization process and copies of applicable laws and regulations, to enterprise managers who considered privatizing their associated land. Once a manager decided to privatize the land, the consultants assisted both the enterprise manager and the local officials in completing the privatization transaction according to the legally defined process, thereby institutionalizing the process and making it commonly accepted throughout the country.

To ensure that real estate consulting services would continue after USAID stopped its activity in Moldova, in October 1999 BA&H helped its senior consultants to establish four private real estate firms. The firms have continued disseminating the methodology across the nation by hiring and training new employees as real estate agents, thereby expanding further the network of individuals capable of assisting enterprises in privatizing their associated land. The firms should be in a position to continue promoting enterprise land sales and generating fees from private clients well after 2000.

Task No. 6. Legal and regulatory component and activities.

From the inception of the project, the BA&H team actively commented on all draft amendments to laws, regulations, and other normative acts related to land issues. The team developed close working relationships with key officials and employees of the Department of Privatization (formerly the Ministry of Privatization); the Ministry of Economy and Reforms; the National Cadastre Agency; and, other ministries to gain access to draft laws and regulations as they proceeded through the channels towards enactment. The team also developed working relationships with key deputies in Parliament, especially deputies in committees important to privatization and agricultural reform activities. A sample of the land-related legislation and normative acts over which the BA&H team had substantial influence includes:

- Land Code (new version and numerous amendments)
- Law on Normative Price (including all amendments reducing the normative price of land)
- Law on Real Estate Cadastre (including all amendments)
- Law on Local Public Administration
- Law on Notaries
- Pledge Law (amendments promoting mortgage of real estate)
- Regulation on sale and purchase of enterprise land
- Regulation governing fees for real estate registration
- Regulation relating to the Agricultural Support Fund
- Title VI of the Tax Code (property tax)
- Farm debt laws (allowing distribution of critical property during farm privatization)
- Law on Expropriation
- Law on Soil Use and Land Use Control
- Instructions on preparation of Land Arrangement Plans (surveying and subdivision procedures for agricultural land being privatized)
- Instructions on completing and maintaining title certificates

The BA&H team also prepared for the Ministry of Economy and Reforms, the Department of Privatization, and the National Cadastre Agency many dozens of commentaries, position papers,

explanatory notes, and other legal documents in support of land privatization and development of markets for private land and real estate.

The BA&H team drafted reference manuals for enterprise land sales and private real estate sales for use by team consultants. The BA&H team also drafted a 60-page manual on sale, lease, exchange and donation of agricultural land that was published in Romanian and Russian by the EU-TACIS AgroInform project and widely distributed to Moldovan farmers and landowners. The team drafted additional manuals explaining the process of obtaining mortgage loans that were given to commercial banks and to rural Savings and Credit Associations, and that were also made available to farmers and agribusiness entrepreneurs seeking loans to purchase agricultural land.

In addition to the normal legal and regulatory tasks required by the Scope of Work, BA&H opened ten legal Problem Solving Team offices throughout Moldova. The Problem Solving Teams employ lawyers and economists to assist new landowners in learning about and enforcing their rights to land, and to defend landowners whose rights are being violated by others in positions of greater power and influence (usually farm leaders and mayors). Since April 15, 2000, the Problem Solving Teams have helped over 50,000 new landowners enforce their rights, often negotiating settlements on the spot during meetings between the landowner and an opposing party. The teams resorted to the court system in only a handful of cases, and only when no reasonable compromise settlement could be reached between the disputing parties.

Task No. 7. Public information activities.

BA&H distributed information on land privatization and land market development to the general public using a variety of media outlets and other tools. The team effectively used the mass media (radio, newspaper, and television) to raise public awareness of the National Land Program and its success in privatization of land. BA&H's primary mass media tool was the monthly "Farmer's Hour" publication (originally the "Land Markets" newsletter). The publication was targeted at the rural population – new landowners, farmers, agribusiness entrepreneurs, and village officials.

The "Farmer's Hour" publication focuses on issues important to the rural community, such as legal rights of new landowners; availability of credit; access to farming inputs and outlet markets; and, technical information to improve farm productivity. "Farmer's Hour" also accepts paid advertising from businesses and individuals, presenting a forum for the exchange of information and business opportunities. "Farmer's Hour" is the only nationally distributed publication in Moldova that focuses on such rural issues. It has over 23,000 individual subscribers and a circulation of 30,000 copies each month, making it one of the most widely read publications in Moldova. The publication is making efforts to become self-sustainable; it generates revenue to support its costs from paid advertisers, subscribers, and open sales of the publication at rural newsstands and post offices. These revenues will help "Farmer's Hour" to remain one of the only major publications that is neutral and not associated with a Moldovan political party.

In addition to the “Farmer’s Hour” publication, BA&H drafted informational manuals and brochures for distribution to the public. In cooperation with the EU-TACIS AgroInform Project, BA&H drafted a manual describing the process of selling, buying, and leasing agricultural land. The BA&H team also prepared brochures and leaflets that: (i) explained the significance of the land title certificate; (ii) informed landowners of their lease rights; (iii) answered questions frequently asked by new landowners; and (iv) presented model contracts for sale and lease transactions. Please see **Appendix Two** for a copy of the Manual and the information pamphlets prepared in cooperation with the AgroInform Project. BA&H typically distributed these informational documents to new landowners, local officials, and other interested parties at town meetings, seminars, and national conferences at which the team would make presentations on the process of land privatization. Problem Solving Team offices and TACIS AgroInform centers were also distribution points for the informational pieces. All documents are also available at no charge to those with access to the Internet on the “Farmer’s Hour” website.

Task No. 8. Continued development of the emerging private land and real estate sector (including development of a market in which mortgage and secured lending to the agricultural sector may occur).

The BA&H team helped establish and train Moldovan private sector firms to offer services to participants in the developing real estate market. As a part of the project, BA&H established over 50 private survey firms to complete land surveys, create land parcels, prepare land titles, and prepare Land Arrangement Project maps for agricultural land that was subdivided and transferred from the State to private owners as part of the National Land Program. In 1998, many such firms began serving other clients. For example, some firms won contracts to conduct urban land surveys for the World Bank, and other firms prepared land plans for enterprises seeking to privatize their associated land.

The BA&H team also established and trained four private real estate consulting firms (brokerages), with which BA&H contracted to assist enterprises in purchasing their associated land from the State and to assist private citizens in selling or purchasing privately owned real estate. In 1999, these private real estate firms began to generate revenues outside of the USAID project, collecting commissions from purchasers of enterprise land and sellers of privately owned real estate.

To promote the development of the land and real estate market, the BA&H team opened a regional privatization center in Chisinau to help private survey firms conduct privatization and to create a critical mass of new landowners that could participate in the emerging real estate market. The team also established a land sales office that was essentially a “one-stop shop” where citizens interested in concluding private real estate transactions could seek advice on all matters, including land and real estate sales; land subdivision; surveys; title preparation; legal consultation; contract and other document preparation; and, registration of landowner rights.

In cooperation with the Citizen’s Network for Foreign Affairs (CNFA), the BA&H team established two mortgage lending programs for farmers, making medium-term real estate financing publicly available. The mortgage programs worked with two commercial banks and six rural Savings and Credit Associations to make mortgage credit available to operators of

small- and medium-size farmers and agribusiness entrepreneurs for the purchase of agricultural land. By December 2000, the commercial banks in the program had made a total of 30 mortgage loans worth over 274,000 USD, of which 136,000 USD was used to purchase 360 hectares of agricultural land. By December 2000, the rural Savings and Credit Associations approved 31 mortgage loans worth 43,000 USD for the purchase of 100 hectares of agricultural land. The two programs introduced mortgage credit to Moldovan financial institutions, making credit for the purchase of land a reality in Moldova and contributing to the growth of the agricultural land market.

Task No. 9. Mass registration of up to three million agricultural land parcels.

With USAID approval, in October 1999 the BA&H team and the National Cadastre Agency signed a Memorandum of Understanding that formed the basis for the mass registration of land ownership rights from the village land registries to the newly established Real Estate Registries created under the World Bank First Cadastre Project. BA&H assisted the National Cadastre Agency and the World Bank project in filling the new registry system with information by printing and collating a cadastre land registry file for each agricultural land parcel privatized during the National Land Program, and by paying the National Cadastre Agency to offset the cost of the mass registration itself. As of December 2000, the BA&H team has delivered 1.172 million cadastre files to the regional Territorial Cadastre Offices for registration into the regional Real Estate Registries. To date, those offices have registered the rights to one million agricultural land parcels, of which USAID directly funded registration of 844,800 parcels.

Task No. 10. Design and implementation of the Phase Down and Close Out Plan for the National Program.

BA&H designed and implemented a phase-down and close-out plan for the National Land Program, including recommendations for the distribution of equipment; the transition between the BA&H project and projects being implemented by other USAID contractors; and, the disposition of project materials and archive documents.

V. MAJOR ISSUES

A. Agricultural Land Titling and Registration

In March 1998, the Government of Moldova announced its intention to break-up and privatize the assets owned or used by all collective farms in Moldova under the “National Land Program.” The Government initiated the National Land Program after the successful implementation of land privatization and titling on the “Maiac” collective farm in the Nisporeni region in 1996 (under the USAID/BA&H Pilot Project) and the successful implementation of privatization and land titling on an additional 72 farms in 1997 - 1998 (under the USAID/BA&H Roll-Out Program). The Government appointed the Department of Privatization to oversee the National Land Program and approved the USAID land privatization methodology for farm break-up and privatization of agricultural land. The endorsement of USAID’s methodology prompted the United States Government to fund privatization of land on 550 collective farms, contracting with BA&H to implement the Program. The United States Government later agreed to fund work on all farms in Moldova that elected to privatize and distribute land to eligible members, which ultimately totaled 901 farms.

The challenge for the BA&H team was twofold. First, the team had to assemble an organizational structure capable of taking the methodology used on the first 73 farms (during 1996 - 1998) and applying that methodology to at least 890 additional farms. Second, the team had to complete land privatization on those 890 farms by December 31, 2000, a period of just over 27 months. The challenge was staggering, considering that the 72-farm Roll-Out Program had lasted 15 months.

1. Organizational Structure of the National Land Program

To establish an organizational structure capable of implementing the National Land Program, BA&H needed to do the following:

- Expand its network of competent private survey firms.
- Add employees to adequately manage a tenfold or larger increase in the work load.
- Develop a coordination plan with EWMI, the second USAID contractor implementing the National Land Program.

a) Expanding the network of competent private survey firms.

The BA&H team believed that it needed at least 50 private survey firms to complete the Moldovan National Land Program Scope of Work within the time frames specified by USAID. BA&H held a tender in April 1998 to attract Moldovan private survey firms to participate in the National Land Program. The criteria for eligibility to work on the National Land Program, set out in the documentation shown in **Appendix Three**, included:

- Evidence that the firm was legally registered as a private firm.
- Presence of experienced surveyors and cadastral engineers on staff qualified to conduct field surveys, create parcels, and prepare Land Arrangement Project maps.
- Demonstrated ability of the private firm to produce technically acceptable Land Arrangement Project maps.
- Evidence that no complaints relating to survey work had been lodged against employees of the firm.

Nearly 100 private survey firms responded to the tender announcement, including the ten firms that worked on the 72 farms. After screening the applications, the BA&H team interviewed the most qualified firms. During interviews, BA&H representatives determined which firms were willing to perform the eight-step scope of work under a fixed-fee contract (which is described in the box on the next page of this report). Firms that agreed to the standard contract were quickly assigned farms on which to work and given a start work order. A list of the private firms that BA&H employed to work on the National Land Program is shown in **Appendix Four**.

To ensure that the private survey firms completed the land privatization and titling work, BA&H frequently offered the firms material support in the form of a computer workstation (computer, printer, and software), which BA&H transferred to each firm as a “mobilization payment” upon the signing of a contract to work on the National Land Program. These payments gave fledgling firms basic equipment with which they could collate information, subdivide farm fields, and produce title certificates. The equipment enabled new firms to perform the contractual tasks more efficiently, thereby lowering the cost of services to USAID. BA&H recovered the mobilization payment by deducting the value of the equipment from future cash payments to the firm. Nearly all new firms eagerly agreed to such in-kind “mobilization payments.” BA&H also assisted larger survey firms in purchasing “total survey stations” (electronic distance-measuring equipment), which increased the accuracy, speed, and overall efficiency of the surveyors. BA&H purchased 23 total stations for 15 private survey firms, and arranged for a manufacturer’s representative to travel to Moldova to provide extensive training on the features and use of the equipment. As an additional bonus, private firms that completed work according to the contract schedule were eligible for a 50 percent discount on computer and survey equipment purchased through BA&H. A copy of the model agreement between the private survey firms and BA&H regarding the provision of equipment as a “mobilization payment” is provided in **Appendix Five**.

BA&H support for private firms also involved removing bureaucratic obstacles to the privatization of agricultural land. Corrupt local officials and officials of Moldgiprozem (the State survey institute) often raised obstacles that stopped surveyors from completing work, and then demanded payments to bypass the artificial obstacles. In some circumstances, officials of the National Cadastre Agency intimidated surveyors by threatening to revoke licenses unless the officials received unofficial payments from the surveyors. In addition, Moldgiprozem officials frequently proposed draft amendments to official survey instructions and issued orders that were

Scope of Work for Agricultural Land Privatization and Titling

The land privatization and titling process, as spelled out in the scope of work in the contract signed between BA&H and a private survey firm is the following:

Step One – Contracting and equipping. BA&H and the private survey firm sign the standard contract for land privatization work on a collective farm. BA&H negotiates the supply of equipment necessary to begin the land survey. The surveyor collects historical maps of the farm and other preliminary information.

Step Two –Field surveys. The private firm surveys the perimeter of each field to be privatized, setting a minimum of three monuments for each field or group of contiguous fields and assigning monument coordinates that are referenced to nearby permanent man-made or natural objects.

Step Three – Cartographic base map. The surveyor collates the field notes and prepares a cartographic base map of the farm that includes information on terrain slope and soil quality taken from historical farm maps.

Step Four – Preliminary Land Arrangement Project map. On the cartographic base map, the surveyor projects an "anti-erosion" plan; existing and proposed access roads; and, the orientation of parcels that will be created. After the local environmental authorities and the regional cadastral engineer approve this preliminary "Land Arrangement Project" map, the surveyor recalculates the surface area of each field and deducts the surface area of the projected roads and anti-erosion strips to determine the exact number of parcels that can fit into each field.

Step Five - Grouping and arranging. Based on the preliminary Land Arrangement Project map, the farm conducts a land tender in which eligible members form themselves into groups and negotiate with one another to select the fields in which they will receive land. The members of each group then decide within which field each member of the group will receive land. Group members who will receive land within a particular field then decide the relative location of each person's parcel in that field, preferably taking into account family relationships, types of cultivation, and farm member agreements for the use and disposition of land. The Land Commission and the village mayor's office approves the "grouping and arranging" lists describing the relative location of each person's land within each field.

Step Six –Final Land Arrangement Project map, Land Titles and Cadastre Registry of Landholders. After the grouping and arranging lists are complete, the surveyor uses computer software to create parcels within each field and prepares the final Land Arrangement Project map (the final parcel map). This map shows parcel boundaries and dimensions, access roads, existing servitudes, and the anti-erosion scheme. The map also assigns a unique parcel number to each parcel. The final map is approved by the village mayor and made available for public viewing. On the basis of this map, the surveyor prepares the Cadastre Registry of Landholders (village land registry), prints the land titles, and presents these documents to the mayor to approve and sign.

Step Seven - Demarcation of parcels in field. For parcels that will be cultivated independently by new landowners, the surveyor marks the parcel corners with simple monuments. Parcels that will be farmed in common or will all be leased to one farmer are not demarcated in the field. Likewise, vineyard and orchard parcels are not demarcated, since the location of the parcel is generally evident based upon the location of the vines or trees.

Step Eight- Final file. The surveyor prepares an archive file containing three copies of the Land Arrangement Project map, all field notes, base maps, and other documents. The mayor's office keeps a copy of the file for public viewing, and the National Cadastre Agency and the surveyor each keep a copy.

intended to add approval steps to the official process for preparing Land Arrangement Project maps and land titles. Such tactics required BA&H to use its allies in the Government of Moldova to stop efforts to extort money from surveyors and to defeat draft amendments that threatened stability of the legal framework under which the firms completed land privatization.

Section V(A)(2)(b) of this report discusses the numerous issues that BA&H confronted to preserve a stable legal framework and to turn away threats against surveyors.

b) Expanding the BA&H workforce.

The huge increase in the volume of work required BA&H to hire additional staff and to create specialized teams to support the private survey firms as they completed each task. BA&H added additional cadastral engineers (surveyors) to its staff and charged them with examining all technical work that the private survey firms submitted for payment. BA&H established a team of lawyers to review the legal decisions of village mayors, which were the legal basis for all land titling work. Database operators used a customized software application to review and collate the list of eligible farm members with the grouping and arranging lists, verifying that all eligible members were included in the land distribution. Finally, BA&H established an information technology team that assisted the private survey firms with all computer hardware and software issues, including map plotting, preparation of the registries of landowners, printing of titles, and resolution of hardware and software problems. For example, to ensure that survey firms would not experience any disruption in use of their computer systems on January 1, 2000, the BA&H technical team completed an extensive overall inspection and reconfiguration of each firm's hardware and software to meet Y2K standards. **Appendix Six** shows the organizational chart for the BA&H staff responsible for agricultural land privatization and titling under the National Land Program.

c) Developing a program coordination plan with EWMI.

The methodology for farm break-up and land privatization evolved from the work on the "Maiac" farm in the Nisporeni region. EWMI initially began privatization of this farm in 1996, with BA&H joining in November 1996 specifically to handle land privatization. USAID used the same two contractors to test the privatization process during the 72-farm Roll-Out Program. As the National Land Program began, USAID asked the two contractors to define the privatization process in greater detail. After a series of meetings between the BA&H and EWMI teams, the contractors prepared a detailed privatization plan that described the role and obligations of each contractor, and the ideal timelines under which each task would be finished. A copy of the original plan for break-up and privatization of land on 550 farms is shown as **Appendix Seven**. The contractors agreed to conduct regular coordination meetings to discuss procedural and bureaucratic delays; ways to solve implementation and coordination problems; dissemination of public information; and, planning of promotional events (e.g., ceremonies to distribute land titles). In addition, the two teams regularly consulted on political strategy aimed at ensuring the full support of the Government of Moldova for the National Land Program.

Most problems encountered by the two contractors during the National Land Program were solved as a result of their close coordination. For example, in cases where a farm failed to cooperate with EWMI's work on distribution of non-land assets, BA&H would temporarily stop the land privatization and titling work. EWMI would likewise temporarily stop distribution of non-land assets and debt resolution work on farms that failed to cooperate with BA&H surveyors on land privatization and titling issues. Another example where cooperation yielded positive results occurred in October 1999, when the Ministry of Finance passed an amendment to the debt resolution procedures that stopped the distribution of all non-land farm assets, including

“critical” property (e.g., tractors, farm implements, etc.) necessary to cultivate land. The contractors jointly proposed to USAID to stop both asset distribution and land privatization work on all farms until the “debt” issue was resolved by an emergency amendment to the law, allowing the distribution of the critical property to be exempt from the claims of private and public creditors. BA&H and EWMI attorneys worked together to draft the amendments that accomplished this goal.

However, even with close coordination and planning, situations occurred in which USAID’s system of two implementing contractors resulted in delays in completion of the work under the National Land Program. For example, in January 2000, as the National Land Program neared completion and pressure built on EWMI to complete land tenders on all farms, EWMI insisted that BA&H allow land tenders to be conducted on the basis of inaccurate historical maps, rather than preliminary Land Arrangement Project maps that accurately showed the size of each field. Since even a minor difference in the size of a field being privatized materially alters the number of parcels that can fit in that field, conducting land tenders on the basis of the historical maps would have led to much unnecessary revision. In fact, BA&H had previously agreed with EWMI that the EWMI team would conduct land tenders on the basis of historical maps. This agreement proved very counterproductive. BA&H surveyors encountered serious problems and substantial delays on nearly all of the 59 farms on which EWMI based land tenders on historical maps. The coordination problem was finally resolved by USAID, which agreed with BA&H that land tenders based on inaccurate historical maps would indeed be meaningless, and would result in longer delays than those faced in simply waiting for the preliminary Land Arrangement Project maps to be completed.

2. Implementation of the National Land Program

To implement the National Land Program in a timely manner, BA&H identified three critical conditions that had to be maintained. First, the cooperation of local officials (mayors, cadastral engineers, regional officials, etc.) and farm leaders was necessary. Frequently even minor disputes caused substantial delays, because the final Land Arrangement Project maps and land titles could not be printed until all known disputes regarding land had been settled. Second, the legal and regulatory framework that governed land privatization, titling, and registration had to remain stable. Changes in the law that established new requirements for privatization, title issuance, or registration of rights to land would force the BA&H team to spend considerable time retooling and redesigning procedures and the organization of its team. Third, the active support of the highest levels of the Government of Moldova was necessary to resolve disputes and enforce policies agreed to between USAID and Government at the start of the National Land Program. At a few critical points during the National Land Program, only the complete support of the highest levels of Government allowed BA&H to continue its work uninterrupted.

a) Cooperation of local officials and farm leaders.

Decentralization of the land titling process was one of BA&H’s principal achievements during the 72-farm Roll-Out Program. However, decentralization led to problems, by placing substantial authority over the land privatization process in the hands of village officials and farm leaders. The BA&H team had to adopt strategies to prevent village officials and farm leaders

from abusing that authority in order to obstruct privatization. To minimize this risk, the National Land Program required each farm and village mayor to sign a contract that spelled out the requirements for participating in the National Land Program. The contract listed the responsibilities of the farm, the mayor, and the Department of Privatization, as well as deadlines by which each step in the land privatization and titling process must be completed. This contract gave the National Land Program a basis on which to use the local media to chastise uncooperative local officials participating in the program. A copy of the contract is shown in **Appendix Eight**. Often, only political pressure could force these officials and farm leaders to respect the wishes of farm members and complete the necessary work on land privatization. Typical problems that BA&H encountered in dealing with village officials and farm leaders concerned:

- *Flawed grouping and arranging.* Frequently farm leaders or mayors would fail to include eligible farm members in the grouping and arranging lists, or would misrepresent to the farm members the location of parcels. Such problems typically surfaced after the land titles were printed, causing disputes that often required reprinting the titles and correcting the final Land Arrangement Project map. (See the box on the next page describing the importance of grouping and arranging.)
- *Frequent changes to the general eligibility lists and list of fields available for privatization.* Too often, mayors changed the general eligibility list by adding or removing names long after the land privatization and titling process had begun. Some mayors also changed the fields eligible for distribution to farm members in an attempt to secure more valuable land for their friends, requiring surveyors to perform additional surveys and to redraft maps. Such changes caused disputes among farm members and village residents, as well as serious disruptions for surveyors and the BA&H team.
- *Misinformation to collective farm members.* Village officials and farm leaders who wished to delay privatization, or to manipulate the process in order to obtain benefits for themselves and their personal allies, often failed to inform eligible members about their rights under the National Land Program or about other issues important to the land privatization process. In this manner, village officials and leaders manipulated the privatization process to secure their interests to the detriment of the farm members.
- *Failure to deliver titles after privatization.* Mayors, often conspiring with farm leaders (oftentimes the former farm manager), would fail to sign and distribute land titles prepared under the National Land Program. Without titles, individual landowners would not know the location of their land parcel, and would not have legal documentation with which to exercise their ownership rights. They could not sell or lease their land parcel to anyone other than the former farm manager, in effect keeping the collective farm together under the control of the former manager.
- *Lease problems.* Farm leaders frequently failed to execute written lease agreements with new landowners, allowing the leaders to alter rent terms arbitrarily or to fail to make rent payments altogether.

Grouping and Arranging of Landowners

Grouping and arranging of landowners is probably the most important, and most difficult, step in the entire process of privatizing agricultural land. This step requires the private surveyor to work with the farm leader and mayor to ensure that every farm member is given the land parcels to which he or she is entitled. If even one farm member is omitted from the grouping and arranging process, the entire Land Arrangement Project map that a surveyor prepares might be invalidated, requiring the preparation of a new project map.

Grouping and arranging is based upon a land tender, a process in which the leaders of groups of farm members select the fields in which each group of farm members will receive land. The selection process usually occurs through negotiation among the leaders. After the tender process is complete, and each leader has selected the fields of arable, orchard, and vineyard land that will be allocated to the farm members represented by that leader, each leader must work with the members of his or her group to decide in which field, and next to whose parcel, each member's parcel will be located. The land privatization methodology requires a leader to take into account the location preferences of each group member. Typically, members prefer to receive land next to their family and relatives. Landowners who do not plan to cultivate their land usually prefer to take land in a field that a leader has agreed to lease out in its entirety.

One can imagine the difficulty faced by a leader in working with 300 farm members to decide where, in each field, each individual's parcel will be located. BA&H and its private surveyors worked hard to resolve the multitude of problems and disputes that arose during the grouping and arranging process. The BA&H team and its surveyors often traveled to the farms to meet with leaders and mayors to resolve problems with grouping and arranging lists. Over time, various standard solutions became evident, and these solutions were commonly applied to resolve conflicts. For example, to avoid giving each family member tiny parcels of various sorts of grapes, the BA&H team developed a standard compromise where each family member would receive a larger parcel of one sort of grape. This solution gave a family access to each sort of grape being grown on the collective without requiring the subdivision of land into excessively small parcels.

BA&H also assisted the private surveyors with grouping and arranging by creating a database program that compared the general eligibility list for the farm with the grouping and arranging lists prepared by each leader or the mayor. The software program flagged the names of farm members that appeared on only one of the two lists, allowing surveyors to speak with the leaders or mayors to resolve discrepancies between the two lists before proceeding with privatization.

Unfortunately, in many cases the problems described above became disputes between the local authorities and farm members who felt cheated. BA&H assisted in resolving these disputes using a number of strategies. In most cases, a BA&H team meeting with village officials and angry farm members was sufficient to resolve a dispute. By explaining the law and the fact that the highest levels of Government strongly supported privatization, many officials would stop obstructing the process and allow privatization to proceed. To solve problems with title distribution, BA&H hired consultants to assist the mayors in delivering the land titles to the new landowners. In the case of more serious disputes, BA&H used media coverage, naming the local official in the press and explaining that the dispute was caused by the illegal activity of the official. Once the press publicized the dispute, the official usually stopped obstructing the process. In extreme cases, problems would persist, requiring the BA&H team and officials from the Department of Privatization to travel on-site numerous times to negotiate a resolution. If all these strategies failed, the BA&H team would have no choice but to recommend that the Department of Privatization sign an order officially excluding the farm from the National Land Program. Once excluded, BA&H surveyors stopped work on the farm until the dispute was fully resolved and the farm was formally readmitted to the program.

It is important to note that the speed with which land titling was implemented by the private survey firms was nearly 100 percent dependent upon the cooperation of the village mayor, farm leaders, and the village Land Commission.⁶ With cooperation from these individuals, a private survey firm could complete land titling on a small farm in three months, and on a large farm in less than six months. Unfortunately, some farms experienced delays in land privatization of nine or more months, most often because local officials refused to fulfill the program requirements. In other cases, delays in land privatization occurred because farm members were involved in genuine negotiations regarding the allocation of land, which demonstrated that individual members were able to exercise opinions as part of the process. In the latter case, the BA&H team tried to assist the members in finalizing negotiations in a manner that was equitable to all involved.

b) Continued stability of the legal framework and land titling process.

The BA&H team worked intensely during the 72-farm Roll-Out Program to establish a stable and decentralized land privatization and titling process protected by Moldovan laws and regulations. The team succeeded in enacting substantial legal safeguards to protect the rights of new landowners. The BA&H team negotiated a set of standard instructions that simplified the creation of land parcels and the preparation of Land Arrangement Project maps and land title certificates, which greatly reduced the role of opponents to privatization in the National Cadastre Agency. The team worked extensively on the Law on Real Estate Cadastre in early 1998 to protect the integrity of the mass privatization process.

The continued stability of the legal framework governing land titling was a vital element in the success of the National Land Program. BA&H cooperated with the National Cadastre Agency whenever possible to avoid problems implementing the National Land Program. However, opponents of privatization in the Agency's Moldgiprozem subdivision continually attempted to "re-centralize" the land privatization process and to assume authority over land privatization tasks. This faction became dedicated to obstructing the National Land Program, regularly proposing changes to the legal and regulatory framework governing land privatization. Over the course of the National Land Program, the BA&H team responded to numerous draft amendments proposed by Moldgiprozem officials and other anti-privatization forces that were intended to change the land titling process, impose additional approval steps, and generally to re-centralize control over all land. The following list is just a sample of the documents on which BA&H worked. Sample commentaries on these legal amendments are shown in **Appendix Nine**.

- *Instructions of the National Cadastre Agency.* Constant attempts by National Cadastre Agency officials (including Moldgiprozem officials) to alter the instructions on the preparation of Land Arrangement Project maps and on the preparation of title certificates caused recurring problems for the BA&H team. The instructions (shown in **Appendix Ten**) established uniform standards for the preparation of parcel maps during the privatization of agricultural land, and were jointly approved in December 1997 by the National Cadastre Agency and the Ministry of Privatization. BA&H succeeded in stopping each National Cadastre Agency proposal to amend the instructions by maintaining that any changes must be

⁶ The Land Commission is a body composed of local officials and farm members responsible for making recommendations to the village mayor regarding land allocation.

coordinated with, and approved by, the Ministry of Economy and Reforms (the successor to the Ministry of Privatization). In each case, BA&H was able to convince the Ministry of Economy and Reforms to reject the proposals, thereby keeping the uniform standards intact.

- *Unilateral orders to surveyors by the National Cadastre Agency.* The National Cadastre Agency issued Order No. 114 in August 1998, which required surveyors to submit their work for review at each step in the land titling process, and to pay the National Cadastre Agency for such reviews. The order also required surveyors to turn over all blank title certificates to the custody of the National Cadastre Agency, in effect re-centralizing control over the entire land privatization and titling process. The BA&H team immediately protested the order to the Vice Prime Minister, who resolved the matter informally. The National Cadastre Agency neither formally retracted nor attempted to enforce the order.
- *Law on Real Estate Cadastre.* This February 1998 law, and subsequent amendments, proved to be a constant battleground between the BA&H team and the National Cadastre Agency. The National Cadastre Agency sought to exert more control over the land privatization, titling, and registration process, and the BA&H team sought to keep the process free of additional regulation and bureaucracy. The primary battles concerned standards for preparing cadastre plans (i.e., Land Arrangement Project maps) and registration of agricultural parcels in the new regional Real Estate Registries maintained by the Territorial Cadastre Offices. For the most part, the BA&H team, working through the Ministry of Economy and Reforms, was able to keep the land titling process intact and free of unnecessary control by the National Cadastre Agency.
- *Amendments to the Land Code allowing expropriation without compensation and the Law on Expropriation.* Proposed changes to these laws threatened to deprive landowners of basic protections guaranteed by the Moldovan Constitution. Land Code amendments proposed by the President's office would have allowed the State to take agricultural land from owners who failed to cultivate it, but would not have required the State to pay just compensation at the time of seizure. The proposal resurrected elements of the old command economy by forcing landowners to cultivate their land regardless of profitability. The draft Law on Expropriation also failed to guarantee payment of fair compensation by the State in cases of expropriation, or to safeguard the procedural rights of landowners in expropriation proceedings. The BA&H team provided negative commentaries to both drafts, and succeeded in convincing Parliament not to enact the worst provisions.
- *Law on Soil Remediation (Soil Law) and Law on State Control over Land Use.* The proposed drafts of these laws violated ownership provisions established by the Moldovan Constitution. The drafts would have seriously interfered with land privatization and the development of the land market by imposing unnecessary requirements for the preparation of Land Arrangement Project maps and real estate transaction documents. More dangerously, the drafts reintroduced the command economy by substituting public authority for private decision-making. The draft laws would have allowed State officials to dictate the construction of certain improvements to privately owned land, the owners of which typically do not have the money to make such improvements, and to confiscate the land without compensation if the

owner failed to make the improvements. BA&H cooperated with the World Bank on several occasions to stop the enactment of these laws.

- *Criminal Code and Administrative Code.* Amendments to these laws established criminal penalties and large fines for failure to abide by orders of State land management authorities (i.e., Moldgiprozem and other centralized authorities). The National Cadastre Agency proposed the amendments to these laws in conjunction with their amendments to the Soil Law and Law on State Control over Land Use. Fortunately, BA&H was able to stop their enactment.

c) Central Government support for the National Land Program.

The support of the Government of Moldova made the National Land Program possible. In March 1998, President Petru Luchinschi announced publicly that 1998 was the “Year of the Moldovan Peasant,” and that all Moldovan peasants should get agricultural land. As the 72-farm Roll-Out Program neared its completion in 1998, more politicians jumped on the bandwagon of privatization. Mid-level Government officials and Parliamentarians began frequently attending titling ceremonies in villages and openly voiced support for privatization. BA&H drew on this support at critical junctures of the National Land Program, when forces opposing privatization tried to stop the process.

There are several notable examples when Government and Parliament support kept the National Land Program on track. First, the National Land Program needed support of key figures in both the Government and Parliament after the Ministry of Finance amended the debt restructuring laws blocking distribution of farm assets during privatization. USAID appealed to these key figures to enact an emergency amendment to the law that permitted the distribution of “critical property” (i.e., moveable equipment, implements, etc.) necessary for landowners to cultivate the land without the critical property being subject to claims of creditors, including the State. Second, as previously mentioned, BA&H turned to the Vice Prime Minister to resolve the conflict caused by the National Cadastre Agency’s Order No. 114, once again allowing the Program to continue uninterrupted. A third example occurred early in the National Land Program, when the intervention of key Parliamentarians ensured that critical edits to the Law on Real Estate Cadastre were passed by Parliament and included in the final version of the law. These edits preserved intact the process under which BA&H was conducting land privatization, and avoided additional controls over BA&H surveyors when preparing Land Arrangement Project maps.

3. Other Issues of Importance

The BA&H team addressed a number of other issues in implementing the National Land Program. Public education, corruption, and changes in the local administrative structure all required BA&H’s attention to ensure the smooth and efficient implementation of the National Land Program. BA&H’s cooperation with Government ministries and agencies, as well as other donor organizations, also played a critical role in the success of the National Land Program.

a) Public Education.

The speed with which land privatization and titling was completed depended on the ability of farm leaders and mayors to understand the privatization process and to carry out necessary tasks. Private survey firms could not carry out their work if mayors or farm leaders did not know their roles in the process, or did not understand the importance of each task. For example, the mayor and farm leaders needed to prepare a list of individuals eligible to receive land as private owners before the farm entered the National Land Program. This list served as the basis for the entire land privatization process. However, the mayor and farm leaders would frequently pressure the Department of Privatization to permit the farm to enter the Program even though the farm's eligibility list was not yet complete, not realizing that skipping this step would require them to spend much time later to correct errors and omissions on the list. To minimize such problems, the BA&H public education team spoke with local officials about the importance of accurate eligibility lists, and explained and emphasized the prerequisite that the list be final before the farm entered the National Land Program. As previously discussed, the process of grouping and arranging was another chronic problem that required BA&H assistance. In order to assist local authorities to complete grouping and arranging, BA&H designated a team to conduct on-site training and prepared a booklet with easy-to-use forms that explained the process in detail (shown in **Appendix 11**). Private survey firm employees often traveled to the farms to help mayors and farm representatives work out problems with grouping and arranging.

The BA&H public education team worked in various ways to ensure that the general public learned about privatization of agricultural land and the National Land Program. The project newsletter, which later became the "Farmer's Hour" monthly publication, was the main source of reliable information for most farm members eligible to receive land. The publication explained in detailed but simple language the law governing privatization; the process that farm members would follow during privatization; and, the progress of privatization throughout the entire country. The public education team also investigated and reported on conflict situations that arose in villages undergoing privatization, giving farm members a national forum in which to make public their complaints. When traveling to villages to investigate claims of abuse, the public education team would meet with aggrieved individuals and explain to them the rights and obligations of all parties under the privatization methodology and applicable law. The public education team produced and gave to farm members written information pamphlets, encouraging them to read the literature and use their newfound knowledge to stand up for their rights. Finally, the BA&H public education team spoke at national seminars, held press conferences, and wrote articles published by the national media to teach farm members and the general public about privatization and the need for reform in agriculture.

b) Corruption.

Local officials, environmental authorities, and bureaucrats of the National Cadastre Agency often demanded payoffs from private survey firms in exchange for signing required legal decisions, approving preliminary Land Arrangement Project maps, or accepting the final files for farms on which the surveyors had completed work. Moldgiprozem officials were especially aggressive in demanding payoffs from National Land Program surveyors. As Moldgiprozem officials learned more about the amounts of money involved in the private survey contracts, their

Harassment of Private Surveyors

Private survey firms implementing the National Land Program became the targets of constant harassment and intimidation by Moldgiprozem officials. BA&H administered the funds granted by the United States Government to Moldova for the National Land Program, and paid private surveyors a large percentage of these funds for survey and land titling work. Moldgiprozem was excluded from the program, leaving its disgruntled officials ready to intimidate the surveyors in any manner possible.

Initial attacks against private surveyors took the form of demands for bribes in exchange for approval of preliminary Land Arrangement Project maps. This tactic failed because BA&H had taken care to word the “Instructions on Preparation of Land Arrangement Projects” in such a way that the surveyors could proceed without approval signatures if Moldgiprozem officials failed to sign the maps within ten days after presentation by the surveyors. When it became evident that surveyors would not be extorted, Moldgiprozem officials became bolder and drafted a series of letters to the Government challenging the competence of private surveyors to perform land survey and titling work under the National Land Program. The first letter (sent to the Vice Prime Minister in August 1998) alleged that Moldgiprozem found substantive errors and illegal actions in the documents and land titles for 19 farms completed by private surveyors. BA&H mounted a full-scale investigation of the charges, and sent the Vice Prime Minister an 11-page response (shown in **Appendix 12** with the original letter from Moldgiprozem) refuting each charge. The response explained the legal basis for each action taken by BA&H surveyors, and showed how Moldgiprozem claims were erroneous and not based on law.

Over the next year, Moldgiprozem sent three more official letters criticizing the quality of the private surveyors’ work, and requesting a Government mandate that Moldgiprozem be the only entity allowed to perform work under the National Land Program. Each time, the BA&H team cooperated with the Department of Privatization to respond formally to the allegations. The BA&H technical team accompanied Moldgiprozem officials on several survey inspections, noting Moldgiprozem’s irregular inspection techniques and challenging the officials on their findings.

When the Government of Moldova refused to change its policy of allowing private surveyors to work on the National Land Program, Moldgiprozem officials responded by threatening to suspend surveyor licenses. In one case, a private surveyor reported that Moldgiprozem officials summoned him to a survey inspection, at which he was told to pay officials 20 percent of the gross amount received from BA&H for that farm or have his license suspended indefinitely. Three other surveyors also faced such threats for failure to pay bribes, leading the BA&H team to seek assistance from central Government authorities and USAID. Mounting pressure to complete the National Land Program from the Government eventually forced Moldgiprozem to retract its threats against the largest surveyors, who were then able to complete their work on the program.

attempts to extract money from private firms became bolder. Intimidation and threats against private surveyors became common, and included groundless refusals to give necessary approval of maps; intimidation of local officials who cooperated with private surveyors; and, in the most extreme situations, threats to suspend the surveyor’s license. If the private survey firms could not resolve the payoff issue on its own, BA&H would involve itself, using its contacts in the Government to remove the obstruction.

Legal initiatives by Moldgiprozem officials continually attempted to undermine the legal basis under which the BA&H team and the private surveyors implemented land privatization. These initiatives were typically amendments to laws and regulations that inserted a seemingly innocuous word in an existing phrase, changing the meaning of the law or regulation and creating a new approval step that could be used by corrupt officials to generate bribes. These initiatives forced BA&H lawyers to scrutinize the contents of all proposed legal amendments relating to land issues for any change that might adversely affect the existing land privatization

process. In the vast majority of cases, BA&H's connections in the Government proved effective enough to quash attempts to upset the stability of the existing decentralized process. Nevertheless, in some cases, the BA&H team needed to approach high level Government officials for assistance in stopping legal challenges that would "re-centralize" the process.

c) Administrative Territorial Reform and the Law on Local Public Administration.

In February 1999, the Moldovan Parliament passed the Law on Administrative Territorial Reform, merging 181 small primarias into larger neighboring primarias. The mergers caused problems with land privatization and titling in the 181 "old" primarias. In some cases, new mayors opposed privatization and tried to stop, or substantially slow, the land titling process. In other primarias, the mayor was unaware of land issues confronting the new communities under his or her jurisdiction, which made it difficult to reach equitable decisions. These administrative changes caused delays in implementation of the National Land Program, as they required BA&H and its surveyors to establish new relationships with local officials. On occasion, the team had to begin work anew when the mayor refused to follow decisions made under the previous regime.

Problems caused by the administrative territorial reform package did not stop with the merger of primarias. In May 1999, the Parliament passed the Law on Local Public Administration, which confused the decision-making authority in every village participating in the National Land Program. The law contained ambiguous provisions that could be interpreted to challenge the authority of the local mayor to make decisions on land privatization. The law transferred much of the authority of the mayor to the village council, making the council the decision-making body, and the mayor the executive arm of the council. BA&H lawyers reviewed the law and concluded that it might require the village council to make the legal decisions on which land privatization is based; such decisions had been made by the mayor in the past. Such a change in the decision-making authority was likely to impact the speed with which land privatization work could be completed. The village council was composed of no less than seven members and met only once per month, making it difficult to get a consensus on important decisions, where in the past a visit to the mayor might have solved the problem quickly.

The BA&H team engaged in lengthy consultations with Moldovan Government officials, who advised BA&H to continue land titling using the existing process, with the mayor as primary decision-maker. BA&H informed USAID of the risks involved in continuing land privatization in a memo shown in **Appendix 13**. With USAID concurrence, BA&H continued operating under the existing process, using the mayor's decisions as the basis for land privatization. In the following months, several village councils challenged the mayor's authority to make decisions regarding land privatization, requiring BA&H to seek assistance from the Government. In each case the Government did not respond formally to the complaints of the village council, but resolved the complaints informally with local officials. The BA&H team was not entirely comfortable with the informal approach of the Moldovan Government, and began its own legal initiative to remove the ambiguities regarding a mayor's authority to make decisions on land privatization. BA&H proposed amendments to the Land Code that would clearly authorize the mayor to make such decisions. These amendments continue to be discussed in the Government and have not yet been presented to Parliament.

d) Cooperation with Government of Moldova and international donors.

The BA&H team cooperated with the Government of Moldova and with international donor organizations while implementing the National Land Program. The main BA&H counterpart was the Ministry of Economy and Reforms and its subdivision, the Department of Privatization. BA&H also cooperated extensively with the National Cadastre Agency on a variety of issues that affected land privatization and the development of the land market. Finally, BA&H cooperated as necessary with the World Bank office and its project teams, with the International Monetary Fund, and with EU-TACIS projects.

- *Ministry of Economy and Reforms (Department of Privatization)*

The Project Scope of Work clearly states that the BA&H team will cooperate closely with the Department of Privatization under the Ministry of Economy of Reforms in implementing the National Land Program. The Department was the main implementer of the National Land Program, and issued the policy and procedural orders to farms that guided the land privatization effort. BA&H lawyers established close working relationships with employees at both the Department of Privatization and the Ministry of Economy and Reforms, allowing the team to obtain copies of amendments to laws and regulations proposed by opponents to privatization. After carefully reviewing such proposals, the BA&H legal team would assist the Department of Privatization or the Ministry of Economy and Reforms to prepare appropriate comments and explanatory notes, which would be transmitted to the drafters of the amendments. This cooperation gave the BA&H team early access to potentially damaging legal drafts that could have derailed the entire land privatization process and stopped the National Land Program.

- *National Cadastre Agency*

The BA&H team's effort to maintain a stable legal and regulatory framework forced it to cooperate with the National Cadastre Agency. While the objectives of the Cadastre Agency were not always in line with those of the BA&H team, usually BA&H was able to work out reasonable compromises with Cadastre Agency officials to promote mutually beneficial legal drafts. However, rogue elements of the Cadastre Agency (e.g., Moldgiprozem officials) would often author dangerous legal drafts that would slip through the Cadastre Agency's administration and become a problem which the BA&H lawyers had to resolve through other channels. On occasion, the disputes arising from these drafts needed to be resolved by the Vice Prime Minister. Nevertheless, the cooperation between the Cadastre Agency and the BA&H team proved positive and necessary to achieve the ambitious objectives of the National Land Program.

- *World Bank and the First Cadastre Project Team*

At different points in time during USAID's land reform activities in Moldova, the relationship between USAID contractors and World Bank officials was tense. For example, in 1996 the World Bank proposed that USAID delay any land reform activity until the World Bank began its USD 22 million First Cadastre Project (to develop a unified land and building registry), which was predicated on the enactment of a Law on Real Estate Cadastre by the Parliament. USAID refused to delay its activities and continued with land privatization. In autumn of 1997, the passage by Parliament of the Law on Real Estate Cadastre seemed

imminent, creating an environment in which the World Bank and USAID had to cooperate to achieve the land reform objectives of both organizations. BA&H cooperated with the World Bank during the late stages of the law's drafting by monitoring the progress of the law's Moldovan drafters, reviewing the law in detail, and providing comments to Bank officials. BA&H's interest in the law was to ensure that Parliament would not enact any clauses adverse to the existing land privatization process. After enactment of the law, BA&H began a fruitful cooperation with the Swedish Aid (SIDA) consultants to the First Cadastre Project. The permanent representative of the Swedes would meet regularly with the BA&H team to discuss issues of primary importance to each project. On many occasions, the Swedish consultants informed BA&H of new draft amendments coming out of the Cadastre Agency, allowing BA&H to alert its counterparts at the Ministry of Economy and Reforms to look for such drafts.

- *International Monetary Fund*

BA&H developed a strong working relationship with the resident representative of the International Monetary Fund (IMF) in Moldova, which gave the team regular access to the IMF policy makers. At meetings with IMF Mission representatives, BA&H would explain issues critical to land reform and present its "wish list" of conditionalities for the IMF to adopt in negotiations with the Government of Moldova. As a result of these meetings, the IMF frequently asked the BA&H team for policy advice on agricultural issues and on issues related to land market development in Moldova. On several occasions, the IMF adopted conditionalities and benchmarks for the Government on privatization and titling of land based on BA&H suggestions.

- *EU-TACIS -- AgroInform Project*

The BA&H team cooperated closely with the AgroInform project team to draft many informational leaflets and brochures, as well as an agricultural land manual, that were all distributed to new landowners receiving titles under the National Land Program through AgroInform centers or by BA&H traveling teams. These documents explained leases and land sale transactions, and answered questions frequently asked by new landowners. The ten regional Problem Solving Teams also collaborated with regional AgroInform centers to exchange information and agree to refer clients to one another to ensure that rural citizens could obtain information and services appropriate to their needs.

4. Impact of Land Privatization on Moldovan Agriculture

The mass privatization of agricultural land in Moldova disassembled the collective farm structure and distributed land, more or less equally, to a large number of individuals. The process created many legal owners, each with an average of three land parcels (arable, orchard, and vineyard land) totaling approximately 1.5 hectares in size. New owners received locatable parcels and a land title for each parcel, allowing them to identify, and decide how to use, their land.

Critics regarded the USAID land parceling methodology flawed because it created an excessive number of land parcels, which they believed was detrimental to efficient farming. The critics incorrectly equated the patterns of land ownership to the patterns of farming and farm size. The facts show otherwise. The overwhelming majority of landowners choose to act passively by

leasing out their land to entrepreneurs or “leaders” in the community, who pooled land and machinery to cultivate large surface areas. These large farms were able to employ farming technologies considered “efficient” by the USAID critics. Other landowners leased in a small number of parcels and created small, highly productive commercial farms that usually specialized in high value crops. A minority of landowners decided to create family farms, typically cultivating their own parcels and those of their immediate relatives for subsistence purposes.

Privatization encouraged new landowners to invest in their land. Even with scarce resources and capital, many “leaders” and landowners were able to invest in and improve their land, if only through their sense of ownership and a good work ethic. Many of these individuals found foreign partners willing to invest in the rich soil and excellent farming conditions in Moldova. Privatization also encouraged landowners to trade land, moving productive assets from the hands of passive to active individuals. This investment in land and agriculture began a transformation of the entire agricultural system, creating private markets for inputs, land, machinery, and crops that previously did not exist.

Finally, privatization of land began to change the social structure of the village community in rural Moldova, creating a more democratic society. New landowners, now responsible for themselves, demanded that the local power structure respect their legal rights and give them a fair opportunity to earn their living. These individuals took active leadership roles and challenged the Soviet-era power structure that remained after independence.

5. Lessons Learned

A number of important lessons can be drawn from the BA&H team’s experience working on the National Land Program in Moldova. The first is the importance of local Government support in implementing nationwide reforms. In the former Soviet Union, local bureaucrats typically use their authority as a license to collect bribes and to control public funds. Donor-sponsored reform programs create tension between the implementers of reform and the local bureaucrats by threatening the personal economic interests of the locals. BA&H used a combination of public education, teaching local officials how they too can benefit from reforms, and central Government pressure on local bureaucrats to minimize obstructions to privatization of agricultural land and to gain the support of the local administration while implementing the National Program.

A second valuable lesson is the understanding that not all intended beneficiaries of mass-scale reform will realize the full benefits of those reforms. In fact, some people might find themselves in a worse situation than they were prior to the implementation of reforms. Realizing that coercion by more influential members of the local community is a reality and that there are limitations to fixed-budget projects will help donors to make difficult choices when setting project objectives. No single project can be the panacea for reform in an economic sector. Nevertheless, donor-funded reform projects are worthwhile if the objectives positively affect a majority of intended beneficiaries and make the country better situated for its transition to a market economy.

A third lesson is that contractors must expect to take an active role in managing and implementing reforms. Educating locals through a series of training seminars is not likely to result in the sustainable development of institutions necessary for a market economy to exist. The BA&H team learned first-hand that expatriate consultants, together with local consultants, must be involved in recommending national policy; lobbying politicians; resolving local problems; teaching processes and procedures on-the-job; and, taking an overall active role wherever locals need assistance when implementing reform programs. In a nutshell, expatriate consultants must lead by example, roll up their sleeves, and get themselves dirty if the project is to gain any measurable level of success. The BA&H expatriate consultants dedicated themselves to implementing the goals of USAID's reform project and spent the time necessary, both in the office and in the field, to ensure that the team completed its work properly and achieved measurable results.

The final lesson to be taken from the National Land Program is that grass-roots public education during and after privatization is the most critical factor necessary to achieve sustainable reform on a mass scale. All individuals must know and fully understand their legal rights and obligations to feel empowered to wrest control from the corrupt local power structure. Only active public education can give individuals the level of knowledge needed to function in such a system. The BA&H team devoted much time and effort to educate peasant farmers, pensioners, and other rural inhabitants regarding their land rights and the protection of those rights. BA&H formed the legal Problem Solving Teams to act as advocates for the rights of the poorest and least educated rural landowners, thereby ensuring that the entire rural population had some ability to learn about and fully protect their legal rights to agricultural land.

6. Recommendations

The BA&H team makes the following recommendations for continued USAID activities related to or resulting from its activities implementing the National Land Program in Moldova.

- USAID should complete any unfinished land titling and registration of farms that entered the National Land Program, but had not received titles as of December 31, 2000.
- USAID should ensure that no less than 90 percent of the landowners receive in hand the land titles prepared under the National Program. To accomplish this goal, BA&H recommends that USAID continue to pay local consultants to assist the mayors in distributing land titles to each new landowner.
- USAID should support the development of the numerous small- and medium-size private farms that have emerged as a result of agricultural land privatization. Support for these farms and their proprietors is vital to the successful transition of Moldovan agriculture from a centrally-planned system to a free market economy. A comprehensive program to assist such farms might offer reasonably priced medium-term investment credit, address technological extension services, and facilitate access to input and output markets.

B. Mass Registration in the Real Estate Registries

Mass registration is the systematic transfer of information on rights to land from the local land registries, maintained by the primaria, to the regional Real Estate Registries, maintained by the nearly 40 Territorial Cadastre Offices in Moldova. Mass registration became extremely important to the National Land Program and the BA&H team in January 1999, after the National Cadastre Agency unexpectedly declared all of the new Territorial Cadastre Offices open and functioning. The opening of the Cadastre Offices triggered a clause in the Law on Real Estate Cadastre mandating that all rights to real estate (including land) transferred as part of a transaction be registered in the new Real Estate Registries. The Law forced owners to reregister their land ownership rights in the new registry before they could conduct transactions, resulting in extra effort and cost for landowners, as well as delays in the development of the land market. For example, a rural landowner wanting to sell his land parcel might have to travel 30 kilometers to the nearest Territorial Cadastre Office and pay the registration fee to have his parcel entered into the new registry. It is unlikely that registration would be completed on the same day, requiring the owner to return a second day to obtain an excerpt from the registry proving that his parcel was registered. For such landowners, who had little money and no access to transportation, the steps involved in “sporadically” registering a parcel before a sale could occur were unmanageable. The Cadastre Offices favored “sporadic registration” of individual parcels by their owners because it generated registration fees from landowners, unlike “mass registration” of all land parcels in a region at the same time, which brought in no additional revenue. However, the failure to conduct mass registration slowed land market development and created confusion in the land tenure system because both the local and regional registration systems continued to maintain land parcel records.

To resolve the problems, BA&H advocated a program to complete the initial mass registration of all agricultural parcels established under the National Land Program. The program proposed the quick and systematic transfer of legal data from one registry to another at no charge to the landowner. Once data were moved from the local registry, the local registry would be closed and all transactions would be registered exclusively in the regional Real Estate Registry. The World Bank and the National Cadastre Agency did not agree with this plan. The implementation plan for the Cadastre Offices called for rural mass registration to occur slowly over a five- to ten-year period, meaning the Cadastre Agency would lose the revenue generated by sporadic registration over that period should mass registration be implemented. Furthermore, the Cadastre Agency had not budgeted for immediate mass registration.

1. Memorandum of Understanding on Mass Registration

BA&H realized the urgency in implementing a mass registration program when the National Cadastre Agency began to propose re-mapping all agricultural parcels established as part of the National Land Program. The proposal seriously threatened the rights of new landowners, whose parcel boundaries might be altered without their consent. This threat caused BA&H and USAID to offer assistance with the mass registration work. BA&H’s plan would accelerate the systematic re-registration of all agricultural land parcels into the new Real Estate Registry system and eliminate the Cadastre Agency’s idea of re-mapping. Under pressure from BA&H and USAID, the World Bank agreed to fund rural mass registration activities, prompting BA&H

to negotiate with the Cadastre Agency for a Memorandum of Understanding (MOU) on mass registration (a copy of which is in **Appendix 14**). The main points negotiated in the MOU, signed by the parties in October 1999, were:

- Mass registration of up to three million agricultural land parcels privatized as part of the National Land Program.
- Immediate issuance by the Director of the Cadastre Agency of an Order "On Mass Registration of Agricultural Land," which specified a simple procedure and time period within which mass registration would be completed by the Territorial Cadastre Offices.
- USAID financing for the preparation of cadastre files of land ownership records based on the Land Arrangement Project maps and land titles as prepared by private surveyors and approved by mayors of primarias, without any alterations or re-surveying.
- Immediate submission by the National Cadastre Agency of amendments to the Law on Real Estate Cadastre and Government Decision No. 1030 "On Mass Registration" to the Government for coordination and approval. These amendments safeguarded the existing land titling procedure. The Cadastre Agency and the BA&H team agreed to jointly advocate the approval of the amendments to the law by the Government, and submitted the amendments to Parliament for examination and adoption.

Under the MOU, the BA&H team used parcel records created during privatization to print the "Chapter A" ownership card for each parcel of agricultural land on farms that completed the National Program. The Chapter A's were then sent to the primaria, where a team of consultants verified their accuracy against the existing records (i.e., the duplicate title certificate and the local land registry). Next, the BA&H team would collate a cadastre file that included the Chapter A card and the duplicate title certificate for each parcel. BA&H consultants would then transfer all cadastre files and back-up documents (i.e., copies of the land registry and the Land Arrangement Project maps) to the Territorial Cadastre Office. Finally, the BA&H team used two documents signed by the Cadastre Offices to verify the registration of the parcels. The first document acknowledged the Cadastre Office's receipt of the files. The second document stated that mass registration was completed; disclosed the number of parcels registered and the number not registered; and, announced that registration of all future transactions should take place at the Cadastre Offices. This document was publicly posted in each village for which the mass registration process was completed.

BA&H established a mass registration team and purchased the equipment necessary to print over 10,000 Chapter A record cards a day, meaning BA&H could print three million record cards in 300 days. In May 2000, over 1.2 million agricultural land parcels had been privatized under the National Program. At that point in time, 800,000 of those parcels had been prepared for mass registration, yet the Territorial Cadastre Offices had mass registered only 310,000. BA&H, concerned with the slow pace of mass registration, met with the World Bank mission team in May to discuss accelerating the process. During the meeting Bank officials made clear that rural mass registration was a low priority and that the Bank had not anticipated the amount of work proposed by BA&H. Shortly after the meeting, the World Bank officially informed USAID that

it did not have sufficient funds for mass registration and requested that USAID fund these activities if it insisted on accelerating mass registration. After discussions between the World Bank and USAID, BA&H was authorized to negotiate an amendment to the existing MOU under which USAID would fund all mass registration activities that occurred from July to December 2000. The BA&H team negotiated a fee of 1.5 MDL per parcel (which represents a 50 percent reduction over what the World Bank was paying the Cadastre Agency for the same work) and calculated that USAID funding for the mass registration of the estimated 1.9 million parcels might total 250,000 USD. In July 2000, BA&H and the Cadastre Agency signed an amendment to the MOU authorizing the mass registration work, which resulted in USAID funding the mass registration of 844,800 agricultural parcels at no cost to the landowners. **Appendix 15** shows the monthly and overall mass registration totals as of December 25, 2000, and the latest figures for mass registration by judet.

2. Lessons Learned

During implementation of the initial mass registration program, the BA&H team learned that state agencies in the former Soviet Union are not likely to operate quickly without an external stimulus to motivate them. Initially, the Cadastre Agency's budget under the World Bank project had limited funds for rural mass registration, causing the Cadastre Agency and the Territorial Cadastre Offices to place a low priority on mass registration. Cadastre Office employees saw mass registration as being a long-term project that would offer them job security for the next several years. A change in the policy of the Cadastre Agency and in the attitude of Cadastre Office employees occurred only after the BA&H team and USAID became involved in mass registration. BA&H agreed to pay the National Cadastre Agency for all agricultural parcels mass registered by its Cadastre Offices by December 2000. The BA&H team ensured that the Cadastre Agency paid the Cadastre Office employees per parcel, using an incentive-based payment plan to motivate them to accelerate the work on mass registration.

3. Recommendations

The BA&H team makes the following recommendation for continued USAID activities related to or resulting from its activities implementing the Mass Registration Program in Moldova.

- USAID should extend its deadlines for payment to the National Cadastre Agency and the Territorial Cadastre Offices for mass registration work past December 2000, in order to complete the initial mass registration of all agricultural parcels created under the National Land Program.
- As part of its activities, USAID should continue public education related to mass registration so that rural landowners understand the benefits of the systematic transfer of their legal rights into the new registry system. Public education teams should ensure that notices informing landowners that their parcels are now registered in the new Real Estate Registry are posted in each village once mass registration is completed. Public education teams should also inform landowners how mass registration promotes the development of the land market and simplifies their obligations in concluding transactions.

C. Legal Problem Solving Teams

Legal Problem Solving Teams provide assistance to rural landowners in resolving disputes with "leaders" and local authorities during the land privatization process, as well as after land has been privatized. The Problem Solving Teams usually assist elderly landowners, who depend on privately owned land as their only source of income. These citizens are among the poorest, most isolated, and most vulnerable Moldovans, and are not confident in learning about or enforcing their rights. The Problem Solving Teams are usually this social group's only source of assistance.

1. Structure and Operation

BA&H established ten Problem Solving Team offices throughout Moldova to respond to the problems that delayed land privatization. BA&H established eight offices in April 2000 and immediately saw the demand for these services grow rapidly. For example, between April and September 2000 the teams investigated 1,223 cases involving 25,823 landowners, and resolved 1,114 of these incidents on the spot, without taking the cases to court. The high demand for services prompted BA&H to open two additional offices in September and to increase the staff of the original eight offices. **Appendix 16** shows the location of the Problem Solving Team offices and provides a short biography on the original team members.

Each Problem Solving Team office includes at least one lawyer and one agricultural specialist. Many offices employ a second lawyer and an office assistant to meet the substantial demand for the teams' services. The teams operate by sending at least one office employee to the field every day to visit landowners who have presented complaints. The team member gathers information; meets with the local mayor and the leader involved in the complaint; advises the landowners of their rights; and, works with landowners to find a solution to propose to the leader or mayor. Solutions are creative and implemented quickly. Only in extreme cases do the Problem Solving Teams apply to the court on behalf of landowners.

Problem Solving Teams typically assist new landowners with the following matters: (i) the landowner has a dispute with a leader regarding lease agreements; (ii) the landowner has a dispute with other landowners regarding land boundaries; (iii) the mayor "illegally" gave title to land already being cultivated by one individual to another; (iv) the mayor failed to distribute land titles; (v) a farm member wishes to claim his land share in kind; and (vi) a landowner wishes to sell or purchase land.

A typical complaint might involve 300 landowners who have leased their land to a leader during the spring of 1999. The lease terminates in Fall 1999, but provides for automatic extension if the parties do not request cancellation. The agreed rent equals a percentage of the fall harvest, but the payment is not due until the spring of 2000. When spring arrives, the leader refuses to pay the full rent, and the landowners ask for their land back from the leader. The leader refuses to return the land unless the landowners pay the planting cost of the winter wheat which has already been sown on the land. The landowners are unwilling (and unable) to pay for the winter wheat. Thus, they have not received all of the promised rent and cannot use their land to plant in the spring. In this case, after making it clear to the leader that he is legally obligated to return

the land to the landowners, the Problem Solving Team representative might suggest a compromise, whereby the landowners agree to waive their claim for unpaid rent if the leader will waive his claim for planting costs, so that the land is returned to the landowners immediately, with the unharvested wheat. Such compromises are often accepted, resolving the dispute on the spot.

The case described above is typical for the Problem Solving Teams and exemplifies the two main reasons why neutral techniques for dispute resolution, such as arbitration, are not likely to be very effective. First, the parties to the dispute do not have equal power. Practically all rural land disputes presented to the Problem Solving Teams to date involve leaders and mayors who violate laws and misinform landowners. Leaders almost always have the support of mayors and other regional authorities, while landowners almost never have any effective access to such authorities. Second, the leader or mayor has already exhibited bad faith. In most cases, the dispute does not arise from any misunderstanding of law by the leader or mayor, but from his bad faith violation of contract and other legal obligations.

Problems in Baltata Village – The Impetus for Legal Problem Solving Teams

In September 1998, the BA&H public education team wrote an article for the national press about a conflict between a group of 81 independent farmers and the collective farm manager in Baltata village, Criuleni region. The farm manager, Mr. Ghelic, apparently ordered his tractor brigade to plow up the newly planted field owned by the group of 81 farmers, igniting a major conflict in the village. Ghelic was upset because the farmers had withdrawn their land shares from the collective farm in February 1998 and paid Moldgiprozem out of their own pockets to receive their land titles. As the dispute continued, Ghelic's intimidation of the farmers increased. He paid off local police and sent them to stop the farmers from harvesting peaches and other perennial crops, allowing them to rot on the trees. At one point, armed paramilitary police on Ghelic's payroll appeared at the home of the group's leader and threatened him with physical violence if he continued to work his privately owned land.

The group of farmers met with two Vice Prime Ministers seeking help with resolution of the matter. Neither official took any action. The group also filed suit for damages against Ghelic in the local economic court. The judge in the case was paid off by Ghelic and ruled against the farmers. At this point the farmers approached the BA&H team. BA&H recognized the important precedent being set by the volatile case and decided to assist the farmers in protecting their land rights against the corrupt farm leader and his henchmen.

BA&H assigned one lawyer to represent the group of farmers and appeal the lower court's decision with the economic court in Chisinau. The BA&H public education team also began a media campaign to inform the general public about the injustice in Baltata, running a series of articles detailing the particulars of the conflict. The Government got involved after BA&H scheduled another meeting with the Vice Prime Minister to discuss the case and explain the seriousness of the rights involved in the dispute. Department of Privatization representatives helped to resolve issues relating to moveable property claimed by the farmers and to the farm debts that Ghelic wanted to push onto the farmers. After nearly one year of tension in the village, hearings in court, and negotiations with Ghelic, the conflict was resolved when the collective farm members elected to privatize the farm, in effect removing Ghelic from power. As part of the privatization of the farm, the 81 farmers received their rightful share of the moveable property and the farm's debts were eliminated under the debt restructuring provisions of the farm privatization and farm debt laws.

This case was one of the first challenges by local farm leaders to the rights of new landowners. The case showed the BA&H team that regardless of the existence and distribution of legal titles, corrupt individuals would continue the old pattern of abuse and oppression of the less powerful and less influential peasant farmers. This case proved to be one of the main factors motivating the establishment of the Legal Problem Solving Teams in 2000.

The extreme imbalance of power and the bad faith evident in disputes between new landowners and leaders or mayors made direct assistance to the landowners necessary to resolve these matters quickly and equitably. In essence, the Problem Solving Teams helped new landowners even the scales with powerful leaders and mayors. By helping to resolve land disputes, the teams give new landowners: (i) some financial security by helping ensure that they are able to use their land or to receive income from rents; (ii) independence from the local elite, which contributes to democratization; and, (iii) access to the developing land market, which should make private farms more viable. As of December 2000, the ten teams had investigated 2,083 disputes, resolved 1,727 of these involving 50,616 landowners.

New landowners typically learned about the Problem Solving Teams through media coverage and word-of-mouth. Newspaper, radio, and television coverage has brought word of the teams' work to a significant percentage of rural households in Moldova, as well as a large number of farm leaders and local authorities. Team members have written and published approximately 50 articles in local newspapers, and local media provided unsolicited coverage of the successful resolution of disputes. The "Farmer's Hour" monthly publication also regularly included stories on the work of the Problem Solving Teams and their contact information. Please see **Appendix 17** for a sample of the articles written about the Problem Solving Teams.

2. Lessons Learned

Assistance to new and prospective landowners is one of the most important factors contributing to lasting success in land reform. Isolation of rural villages from the centers of power results in continued abuse and coercion of the less influential landowners. Even where the reform process is complete, leaders and other influential individuals in the village have a substantial opportunity to cheat new landowners who are not fully aware of their rights or cannot enforce those rights. The legal Problem Solving Teams usually offer new landowners the only means to defend their rights and protect their economic interests. Such assistance works best when it takes the form of advocacy for the rights and interests of landowners, rather than in the form of "neutral" advice offered simultaneously to landowners and those who are actively violating the rights of landowners. Given the extreme imbalance of power between landowners, as a group, and former collective farm leaders and their allies in local government, a neutral approach is bound to play into the hands of farm leaders and leave landowners no better off, and perhaps more discouraged for the experience. Without teams committed to acting as advocates for landowner rights, poor and elderly landowners are unlikely to see any meaningful change in their lives as a result of land reform.

3. Recommendations

The BA&H team makes the following recommendations for continued USAID activities related to or resulting from its legal Problem Solving Team activities in Moldova.

- USAID should continue support for the teams and expand their activities to protect the legal rights of new landowners, ensuring that the teams continue to act as advocates for landowner rights. The next 12 months will witness the further establishment of land leasing and land

sales practices in the rural sector. Without the Problem Solving Teams to prevent unscrupulous individuals from taking advantage of ignorant or naive new landowners, crooked practices will become the norm. Without knowledge of their legal rights and access to legal defense against abuse and coercion, new landowners will be unable to enforce their rights and the law, rendering the reform activity meaningless.

- USAID should support efforts to create an association of legal rights groups that protect landowners from unscrupulous farm leaders and local officials. The association should unite the legal Problem Solving Team offices and establish a central office that lobbies for legal and procedural changes to stop notaries and registration offices from charging excessive fees and to prevent the re-centralization of control over land by Government ministries and agencies.

D. Enterprise Land Sales (ELS)

The Project's enterprise land sales component deals with the privatization of land associated with enterprises. During mass privatization in 1994 - 1995, the state transferred the assets of enterprises to citizens, but kept the land for itself. To privatize land, an enterprise must purchase it from the State, which sells it according to procedures set out in the relevant Moldovan laws, Government Decisions, and regulations. USAID identified the privatization of enterprise land as an important activity for three reasons: (i) it disassembles the state control structure; (ii) it moves important assets to more productive private hands; and, (iii) it generates investment in the economy.

The Law on Normative Price and Procedure for Sale and Purchase of Land, originally passed in 1994, sets out the legal basis for enterprise land privatization. The Law establishes the land price using the assumption that all Moldovan land has agricultural value, even land located in urban areas. To privatize the land, the Law requires the purchaser to pay the state for lost agricultural profits 99 years into the future. The drafters of the Law estimated this sum and included it in the Law as the "normative" purchase price⁷ for privatization. Because the purchase price of land was very high and unaffordable for most enterprises, Parliament, with advice and assistance from the BA&H team during the Pilot Project, passed an amendment to the Law on Normative Price in May 1997 that introduced price-lowering coefficients to the price calculation and triggered the start of enterprise land privatization in Moldova. Unfortunately, the amendment applied only to privatized enterprises. Private enterprises,⁸ which generally used smaller land parcels but were more numerous and better capitalized than privatized enterprises, were not covered by the price-lowering coefficients. Only later, in 1998, did Parliament amend the Law on Normative Price to apply the price-lowering coefficients to land associated with private enterprises, making the land price equal for private and privatized enterprises.

The purchase price of enterprise land is calculated using the following formula:

$$Price = A * T * F * RC * LC$$

Where:

A = surface area of the land parcel, as shown on the document that confirms the right of land use.

T = the tariff for enterprise land, which is 9,264.96 MDL per point of soil fertility.

F = soil fertility, which for enterprise land is 65 points.

RC = the republic-based location coefficient of between 0.02 and 0.30, which takes into account the location of a land parcel within the Republic of Moldova.

LC = the settlement-based location and improvement coefficient of between 0.60 and 1.44, which takes into account the distance of the land from the relevant settlement center and the level of infrastructure at that location.

For example, the price of a parcel in Chisinau located outside of the city center, with a surface area of 2.36 hectares, is calculated as follows:

⁷ The normative price is the purchase price of land as established by the Law on Normative Price and Procedure for Sale and Purchase of Land.

⁸ A private enterprise is one that was formed with 100 percent private capital and never owned by the State.

$$\text{Price} = 2.36 \text{ ha} * 9,264.96 \text{ MDL/soil pt.} * 65 \text{ soil pts.} * 0.30(\text{RC}) * 1.0(\text{LC})$$

$$\text{Price} = 426,373.46 \text{ MDL.}$$

The Law on Normative Price requires approval of the sale by the appropriate Government authority (i.e., Department of Privatization); notarization of the contract on sale and purchase; and, registration of the ownership rights in the Real Estate Registry maintained by the Territorial Cadastre Offices. A detailed procedure for privatization of enterprise land is spelled out in the Government Decision No. 562 “On Approving the Regulation on Sale and Purchase of Enterprise Land.”⁹ This procedure is described in the following box. The BA&H team was responsible for drafting the regulation, which was adopted by the Moldovan Government in October 1996. The regulation established a procedure for the quick and simple transfer of the associated land from the state to the enterprise, using existing documents and requiring no new land surveys. Under the regulation, a legal land title could theoretically be issued within a few days after the purchase. A copy of an enterprise’s land title is shown in **Appendix 18**.

Enterprise Land Sale Procedure

- 1) The enterprise submits to the primaria an application to purchase its associated land, and requests consent to the land sale from the Department of Privatization Territorial Agency. The application for land acquisition must include a cadastre plan of the land parcel and the following documents:
 - a) The state registration certificate of the enterprise.
 - b) Five original copies or certified copies of a document confirming the surface area of the land parcel and the enterprise’s right to use the land parcel. This document may be the primaria’s decision on allocation of land to the enterprise; the Title Certificate of Use; an excerpt from the primaria Cadastral Registry of Landholders; the land plan; or, any other existing document confirming the right to use the land.
 - c) A sale and purchase agreement, privatization certificate, or other document certifying ownership of the immovable object located on the land parcel.
- 2) Within 30 days of receipt of the application, the primaria must adopt a decision on the sale of the land parcel, and prepare a contract on sale and purchase of land that includes the calculation of the purchase price according to the Law on Normative Price.
- 3) The purchaser transfers either the down payment or the full sales price to the bank accounts of the primaria (the seller of the land according to law) and the State. The proceeds are divided as follows: 50 percent to the primaria and 50 percent to the State.
- 4) The contract on sale and purchase is signed in the presence of a notary and is notarized in three copies. The primaria keeps one copy, the purchaser keeps one, and one copy remains with the notary.
- 5) The primaria issues the land title certificate to the purchaser within ten days after notarization of the contract on sale and purchase.
- 6) The purchaser must register a notarized copy of the contract and the Title Certificate at the Territorial Cadastre Office within three months of notarization of the contract on sale and purchase.
- 7) The Territorial Cadastre Office registers the land parcel and the ownership rights thereto based on the contract on sale and purchase.

⁹ See Footnote 2.

As of October 1998, 409 enterprises had purchased their associated land from the state using the simplified procedure. Nevertheless, the price of land remained unaffordable for most privatized enterprises. Newly privatized notaries also began to cause problems in privatization. To promote enterprise land sales, the BA&H team had to solve these problems and many others that would arise after October 1998.

1. Expanding of the Network of Enterprise Land Sales Consultants

In late 1998, the BA&H team expanded its organizational structure to move the enterprise land privatization effort from isolated pockets to all regions of the country. BA&H began to broaden its network of regional sales consultants, using its five Chisinau-based senior consultants to hire, train, and supervise over 75 regional consultants. Enterprise land sales training for new consultants consisted of a formal seminar explaining the steps in the sale process, the enabling law, and the standard forms used to complete the transactions, followed by on-the-job training with BA&H senior consultants during which actual transactions were completed. As questions arose, new consultants sought advice from senior consultants or consulted the BA&H reference manual (included in **Appendix 19**) for enterprise land sales. The manual describes the sales process in detail; cites the relevant laws that establish the legal basis for land privatization; and, includes a sample of all forms used in enterprise land sales. The manual also includes tips and strategies for dealing with local officials and for solving typical bureaucratic problems that arise during the privatization process.

BA&H paid its regional consultants entirely on a commission-fee basis. The consultants would present a billing statement for each completed transaction to BA&H. The billing statements (shown in **Appendix 20**) included all backup documentation necessary to prove that the transaction was properly concluded and registered. The compensation scheme tied a consultant's income to the completion of privatization transactions, altering the mindset of most consultants. Consultants became innovative problem-solvers who aggressively opened new markets for enterprise land sales and hustled for new clients that were willing to privatize their land.

To encourage sustainability in the private market for real estate services, BA&H helped its senior consultants to establish four private brokerage firms in October 1999. BA&H supported the four new firms, both financially and logistically. Each firm signed a contract for services (shown in **Appendix 21**), under which BA&H paid a commission for privatization transactions completed with the firm's assistance. However, BA&H also required that the firm collect a commission from the client, and made it clear that USAID financial support would be reduced over time. From October 1999 to December 2000, BA&H reduced the financial compensation paid for transactions completed by the private firms three times, lowering the commission by 60 percent.

BA&H offered the private brokerage firms other types of support. BA&H, in cooperation with ACDI/VOCA, arranged two training seminars to prepare the consultants to become private real estate brokers and Moldovan entrepreneurs. The first seminar used two ACDI/VOCA volunteers to teach a seven-day interactive session that focused on strategic and financial planning; small business administration; employee/employer relations in real estate brokerage; and, the legal foundations of agency relationships. One month later, BA&H and ACDI/VOCA arranged for a

certified appraiser from the United States to teach the private firm owners about land appraisal techniques and property valuation, focusing on agricultural land. BA&H also provided free office space and limited driver services for the new firms. However, throughout 2000, BA&H continued to decrease its support for the firms, slowly increasing the amount of daily business expenses the private firm owners carried.

2. Legal and Regulatory Victories

In 1999 and 2000, the BA&H team successfully lobbied the Government and Parliament to pass progressive amendments to the laws governing enterprise land privatization. Amendments to the Law on Normative Price in April 1999 introduced a second set of price-lowering coefficients that further dropped the purchase price of enterprise land from between 50 to 98 percent, depending on the parcel's location. The Parliament also extended the period of time allowed for an enterprise to pay the full purchase price for land (after paying a 25 percent down payment) from three to ten years. The amendments were a direct result of the BA&H team's lobbying efforts to make land more affordable for all enterprises.

The second amendment to the legal framework came in June 2000 when the Government amended the Regulation on Sale and Purchase of Enterprise Land. The new provisions permitted the privatization of land associated with agricultural structures (e.g., barns, mills, warehouses, etc.) that had been privatized during the National Land Program, using the same procedure established to privatize enterprise land. The amendment greatly simplified the procedure by which the land under agricultural structures is privatized. BA&H consultants reported that this amendment makes the land under approximately 10,000 agricultural properties eligible for privatization using the simplified procedures set forth in the Regulation. The one remaining problem that blocks the mass-scale privatization of land under these structures is the legal requirement that the owners register their rights to the structure before the land can be privatized. The methodology for privatization of collective farm property designed and implemented by EWMI fails to present owners of these structures with legal documentation proving their ownership of the property, bringing into question whether the structure was ever legally privatized. Until this issue is resolved, privatization of this category of land is not expected to occur on a large scale.

Throughout 1999 and 2000, the BA&H team fought off several attacks by opponents attempting to complicate the procedure for privatizing enterprise land. The most serious of these challenges was an attempt by the National Cadastre Agency to force surveyors to tie land plans used during the privatization of enterprise land to the national coordinate system. If passed, the amendment would have significantly raised the costs of enterprise land privatization and needlessly complicated the existing procedure. BA&H was able to garner sufficient support from the Ministry of Economy and Reforms to terminate consideration of the amendment by the Government.

3. Implementation Problems

Several recurring problems plagued the enterprise land sales consultants during 1999 and 2000. The first of these problems was the notary system. Moldovan law requires notarization of all

real estate contracts, mandating the involvement of a notary in each transaction. Privatization of notary services in September 1998 encouraged many notaries to become bold and abusive in their practices, establishing strange and arbitrary customs that were not defined in any law or regulation. Notaries also raised the fees that a purchaser would pay for notary services. Under state notary administration, the fee for notarizing a real estate contract was 2.70 MDL; after privatization of notary services, the notary's fee jumped to one percent of the purchase price. Another example of the boldness of private notaries was their insistence that all notarizations be printed on "forgery-proof" blank paper that cost 11 MDL per sheet. A contract prepared in five copies on this paper could quickly provide a sizeable bonus for the newly privatized notary. In some cases, the notary refused to use the standard form of contract for land privatization mandated by the Regulation on Sale and Purchase of Enterprise Land. Instead, the notary would prepare his or her own contract, and then charge an extra fee for its preparation. Finally, many notaries began to demand that parties present documents not required by law before notarizing a land sale contract. If the purchaser failed to present the documents, the notaries refused to notarize the transaction documents, stopping the privatization.

The BA&H team intensified its lobbying efforts against the notaries, taking its case to the Government and the donor community. The Ministry of Economy and Reforms and the International Monetary Fund, both disturbed by the actions of the private notaries, joined the campaign to stop their illegal actions. The IMF made regulation of the private notaries a condition for continued lending to the Government. This pressure resulted in Parliament's passage of an amendment to the Law on Notaries in 1999 that established a fixed fee schedule for notary services, which drastically cut the fees for notarizing real estate documents. Unfortunately, the victory was short-lived, because the notaries successfully challenged the amendment in the Constitutional Court. The Court used strange and illogical reasoning to agree with the notaries, and ruled that the amendment to the Law was unconstitutional. In essence, the Court found that the Parliament cannot set the fees by which notaries conduct the state-mandated practice of notarizing real estate contracts.

After the Court's ruling, notaries continued their pattern of abusive and illegal practices. The notaries not only reinstated the old fee schedule, but even raised some of the fees for notarizing real estate transactions. This brazen act prompted the national press to comment on the notaries' actions. The BA&H team also wrote a series of articles for the national newspapers condemning the actions of the notaries and explaining to the general public how notaries were overcharging individuals. These articles prompted the notaries to threaten a lawsuit against the expatriate consultants on the BA&H team. The situation was ultimately resolved when the two sides negotiated a reduction in the fees to notarize rural real estate transactions.

A second recurring problem was registration of land rights at the Territorial Cadastre Offices. After the National Cadastre Agency declared its Cadastre Offices open and functioning in January 1999, problems with registration became common. The Law on Real Estate Cadastre requires enterprises purchasing land to register their ownership rights in the Cadastre Offices, but initially nearly all of the offices were not capable of registering rights. BA&H consultants, who knew the law and understood the registration process, had to educate and train the registrars to register their transactions. Once registrars learned the process, many began to abuse their power by overcharging purchasers ignorant of the law and of the fees approved by Government

regulation. Cadastre officials also violated time limits for registration, creating artificial delays to extract payoffs for expedited registration. BA&H consultants regularly had to battle with Territorial Cadastre Offices on these issues, and to complain about unsolved problems to the National Cadastre Agency. In most cases, the threat of exposing corruption in the new cadastre system prompted the National Cadastre Agency to resolve the problems quickly.

4. New Strategies

In July 2000, USAID asked the BA&H team to recommend methods to accelerate the transfer of the remaining non-privatized enterprise land from state to private ownership. The BA&H team conducted a study of 200 enterprises that privatized their land between 1997 and 2000 to gather input for the recommendations. A copy of the survey results is provided in **Appendix 22**. BA&H also examined the model for enterprise land sales used in the Republic of Georgia by BA&H's USAID-funded sister land market reform project. Under this model, land was transferred from the State to enterprises for a one-time fee equal to twice the real estate tax, in order to determine its applicability to the situation in Moldova. As a result, the BA&H team prepared two reports (included as **Appendix 23**) listing six possible strategies available to USAID for accelerating the privatization of enterprise land in Moldova. The most likely strategies for USAID to pursue would be:

- Reducing the enterprise land purchase price to a nominal fee
- Improving the capacity of enterprises to pay
- Broadening the application of the existing price-lowering coefficients for the purchase of enterprise land
- Enforcing lease contract provisions, whereby enterprises occupying state-owned land must pay for the use of that land.

Successful implementation of these strategies, or a combination of them, might result in a much faster transfer of enterprise land to private businesses that are likely to put the land to good use.

5. Other Tactics

Several other tactics were important to the BA&H team's success in enterprise land privatization. The team's focus on public education to promote land privatization was critically important. Using its network of regional consultants, BA&H informed enterprise managers of the benefits of land ownership and the process whereby they could purchase land. BA&H consultants held local seminars, and conducted one-on-one meetings with enterprise managers, mayors, and other local officials (including cadastral engineers and registry officials) to persuade them to engage in land privatization. At the seminars and meetings, BA&H consultants distributed educational materials, including pamphlets explaining the privatization process and handouts reprinting the laws and regulations that define the process. BA&H continually used the Moldovan press and the Project's own newsletter to create public awareness and to publicize successes in enterprise land privatization.

The second important tactic was the hands-on assistance that BA&H consultants gave to the local authorities during land privatization. Most mayors, especially in smaller villages and towns, did not understand the process of land privatization. These mayors did not have resources to prepare the documents required to conclude a privatization sale. For example, many villages did not have even the paper on which to print a land sale contract. BA&H consultants offered the mayors material and logistical support, as well as training in the land privatization process, so that transactions could be completed efficiently and according to the legal procedures. Without the BA&H team, it is unlikely that even a fraction of the privatization transactions would have taken place.

The third tactic was the compensation plan used by BA&H, which proved to be a critical motivating factor in obtaining good results in a difficult environment. BA&H established an equitable pay scale under which consultants were paid a generous commission upon completion of a difficult, but achievable, task. The commission payments turned consultants into innovative problem-solvers, rather than the typical ex-Soviet passive fatalists resigned to the inevitable failure of any privatization efforts. As time progressed, the BA&H compensation plan motivated consultants to find new ways to convince enterprise managers of the benefits of land ownership. BA&H consultants even enticed some of the most stubborn and conservative mayors to become converts to privatization by explaining that 50 percent of the purchase price generated through privatization sales was deposited into the primaria bank account at closing.

Using the techniques described above, the BA&H team was able to assist a total of 1,564 enterprises in purchasing 1,891 parcels of associated land from the State between October 1998 and December 2000.

6. Lessons Learned

BA&H successfully used a commission-based compensation plan for its enterprise land sales consultants, motivating them to find creative solutions to bureaucratic obstacles that hampered the privatization of enterprise land. Commission-based compensation created an atmosphere in which consultants' personal economic gain was tied to the success of land privatization and reform. Before instituting this type of compensation, BA&H consultants continually offered excuses why privatization transactions could not be completed. Shortly afterward, the same consultants were concluding a large volume of enterprise land sales and making the land sale process, as defined by the Regulation on Sale and Purchase of Enterprise Land, commonly accepted in localities throughout Moldova.

BA&H consultants were also instructed to offer any assistance necessary to local officials to conclude privatization transactions. Local officials frequently lacked the resources and knowledge of the law to prepare documents necessary for land privatization. BA&H consultants helped draft contracts; calculated the correct price for the land being privatized; and, guided mayors through the legal steps in concluding the transaction. The consultants also assisted enterprise managers, explaining to them the necessary documents, helping complete the application for land purchase, and guiding enterprise managers through the closing process. These customer-oriented services accelerated the process of enterprise land privatization and promoted an atmosphere where privatization was likely to succeed.

Finally, BA&H stressed the proper training of its enterprise land sales consultants. These individuals taught local officials the procedural requirements for land privatization and safeguarded the legal process established by regulation and law. BA&H required its consultants to know the law and its nuances, and to be able to explain the law in detail to mayors, village cadastre engineers, real estate registrars, and enterprise managers. Because of their neutrality in the transaction, BA&H consultants had the best interests of all parties in mind, and ensured that the transactions would be properly concluded and registered.

7. Recommendations

The BA&H team makes the following recommendation for continued USAID activities related to or resulting from its activities implementing enterprise land sales in Moldova.

- USAID should continue to support the private real estate brokerages that assist enterprises in privatizing their land, and help them to organize themselves into an association of cooperating brokers. These firms are not yet self-sustainable, and they need the financial and logistical support of USAID for an additional year. The firms should become independent of USAID funding and assistance by 2002. By 2002, the firms should also form the basis for an association of private real estate brokers in Moldova.
- USAID should examine alternatives to change the policy of the Government of Moldova toward enterprise land privatization, in order to accelerate the transfer of land from state to private hands. BA&H has prepared a comprehensive study of the possible policy alternatives in this regard, which USAID should evaluate immediately and implement in 2001.
- USAID should continue legal and regulatory work to protect the rights of enterprises that own land, and to safeguard the process under which enterprise land privatization occurs from assaults by opponents on the legal framework of the process. Moreover, if USAID wants to support changes to the policy under which enterprise land privatization occurs, a concerted legal and regulatory effort is needed in 2001 to draft legal changes and further simplify the process under which privatization occurs.
- USAID should clarify the legal ownership documents for agricultural structures that were distributed under the EWMII portion of the collective farm break-up process. It appears that no legal ownership of the structures was transferred to the members of the collective farm, making it legally impossible to privatize the land beneath these structures using the simplified procedure defined by the Regulation on Sale and Purchase of Enterprise Land.

E. Private Land and Real Estate Sales

A major component of the Project Scope of Work was the development of the private real estate market. This component was important to promote investment in the Moldovan economy; unlock a source of capital for individuals and enterprises; and, give landowners the ability to exercise fully their ownership rights. During the 72-farm Roll-Out Program, BA&H privatized about ten percent of the agricultural land in Moldova and completed a substantial number of enterprise land sales, establishing a base of private landowners with whom BA&H senior consultants could work to develop the private real estate market. BA&H consultants informed the public that, according to the Law on Normative Price, a private owner could sell his or her land at a freely negotiated price once the land had been privatized. Once consultants found purchasers and sellers for newly privatized land, they assisted the parties in negotiating a price, drafting a contract, concluding the contract before a notary, and registering the ownership rights of the purchaser in the Real Estate Registry. Through their actions, BA&H consultants institutionalized the procedures for completing and registering private transactions.

BA&H consultants were able to adapt the land sale procedure to the local customs mainly because the law provided a simple description of the procedure. In instances where a notary or a Territorial Cadastre Office employee disagreed with the BA&H consultant on a point of law, the consultant would exploit the ambiguities caused by the lack of detail in the Law on Normative Price to convince the authority of the legality of the proposed solution. BA&H consultants became well-versed in the law, learning to “live in the loopholes” to conclude private transactions, and they replicated throughout the country the procedures thus developed in conducting private real estate sales.

In addition to sale and purchase transactions, BA&H consultants developed procedures for “exchanges” of agricultural land, and helped landowners to conclude, notarize, and register the only known exchange transactions in Moldova. Exchanges were necessary because, although access to all of the arable (field crop) parcels created as part of the National Land Program is provided by either an existing road or a “projected” road that is not yet constructed, the majority of these parcels are located in the middle of a large field, without access to an existing road. If the owner of such a non-accessible parcel desired to sell or lease out his or her parcel, he or she would exchange parcels with the owner of a parcel that already borders an existing road using an exchange contract, after which he or she would sell or lease the new parcel.

1. Key Factors in Developing the Private Land and Real Estate Market

Two factors in particular contributed to the substantial increase in private real estate market activity beginning in October 1998. First, BA&H changed the pay structure for its consultants from a “base-plus-commission” plan to a 100 percent commission plan. BA&H believed that paying sizeable commissions to its consultants for concluding private real estate transactions would be successful in encouraging more transactions. At first, when few transactions were expected, BA&H paid a very generous commission for each completed transaction. As consultants concluded more private transactions, BA&H gradually lowered the commission fees to more reasonable levels.

Second, USAID agreed that the BA&H team should begin to work with buyers and sellers of agricultural land and residential real estate, rather than just with enterprises that had privatized their associated land. The 72-farm Roll-Out Program established 70,000 new private owners of agricultural land, and the National Land Program would establish another 785,000 agricultural landowners, making it clear to BA&H that the market for privately owned agricultural land would be the easiest to develop. BA&H conducted surveys in villages that had completed agricultural land privatization to determine if demand for acquiring additional agricultural land existed among the new owners. Where demand appeared high, BA&H hired local consultants to identify sellers and purchasers of land, and paid a finder's fee to the local consultants when transactions were concluded. BA&H trained local consultants using a reference manual (see **Appendix 24**) and on-the-job training by senior consultants.

2. Establishment of Private Real Estate Firms.

As discussed above in the section on enterprise land sales, BA&H helped its senior consultants to establish four private real estate brokerage firms in October 1999. BA&H was determined to create a private real estate service sector by establishing the four firms. BA&H agreed to support the firms financially, but to phase out that support over time, making it necessary for the firms to collect commission fees from clients and to bear themselves an increasingly greater percentage of the costs associated with running the business. To prepare the new firm owners for life as entrepreneurs, BA&H arranged two training seminars in cooperation with ACDI/VOCA. The first training seminar focused on real estate brokerage and business planning, and the second training seminar focused on land appraisal and valuation. BA&H also offered the new firms free office space and limited access to BA&H drivers. As the firms completed their first year of operations, they reported that on average 25 percent of their revenues came from USAID and the remainder from citizens and enterprises that were clients, showing that the firms can become self-sustainable.

3. Implementation Problems.

The main problems encountered by BA&H consultants when assisting individuals to conduct private real estate transactions were procedural. Local public officials (i.e., mayors or cadastral engineers) played no formal role in the trading of privately owned land, so it was not common for such officials to prevent parties from concluding transactions. Most problems occurred as parties tried to formalize contracts with notaries or to register the transfer of rights at the Territorial Cadastre Office. Moldovan law requires notarization of real estate contracts and registration of the transfer of rights, creating a situation in which notaries and registrars are able to misuse their authority and cause problems.

a) Private Notaries. As mentioned above in the section on enterprise land sales, the notary offices were privatized in September 1998, after which notaries boldly instituted questionable requirements and arbitrary procedures for notarization of real estate contracts. Notaries obstructed private real estate transactions frequently, even more often than privatization transactions. This discrimination likely occurred because private transactions did not involve a Government authority that was likely to object to corrupt practices.

High notary fees quickly became the most common problem for parties to a real estate transaction. The fee to notarize a real estate contract, as authorized by an Order jointly issued by the Ministry of Justice and the Ministry of Finance in September 1998, was one percent of the real estate's value as stated in the contract. The fee was much higher than that charged (2.70 MDL) while the notaries were part of the state structure, and bore no relationship to the amount of work or complexity of the work required of the notary. The fee amounted to a private tax on real estate transactions that was perceived by most buyers and sellers as quite high. People from rural areas, where income levels tend to be much lower than in cities, suffered disproportionately from the effects of these high fees.

To stop the drag on land market development caused by these fees (and other abuses of notaries discussed below), the BA&H team turned to the International Monetary Fund. BA&H informed an IMF mission of the problem with notary fees and convinced the IMF to adopt the reduction of notary fees for real estate transactions as one of its conditions for continued lending to the Moldovan Government. The conditionality resulted in Parliament's passage of an amendment to the Law on Notaries in July 1999 that established a fixed fee schedule for notarization of real estate contracts and sharply reduced the notary fee. The victory was short-lived, however, as the notaries successfully challenged the amendment in the Constitutional Court. The Court, using strange rationale and poor logic, ruled that the amendment was unconstitutional and annulled the fixed fee schedule. In essence, the Court found that the Parliament did not have the right to set fixed fees for the services of notaries, even though the services are mandated by law.

After the Court's decision became public, the notaries reestablished their fee schedule without the approval of the Ministry of Justice or Ministry of Finance, and even raised many of the fees. For example, the fee for notarization of a real estate contract became the greater of 270 MDL or one percent of the purchase price. Once again, the fees were prohibitively expensive for those engaging in agricultural land and rural real estate transactions, depressing activity in the market. The 270 MDL minimum fee was particularly expensive for a farmer purchasing parcels from more than one individual. For example, a farmer who agreed to purchase ten parcels of land for 3,500 MDL each would have to pay the notary an additional 2,700 MDL (nearly eight percent of the purchase price) to notarize the ten contracts. These problems continued until the BA&H team wrote a series of articles that raised a public outcry in the national press and exposed the corrupt practices of, and the excessive fees charged by, the notaries. **Appendix 25** contains sample articles related to the notary controversy that were published in the press. An eventual compromise agreement between the BA&H team and the notaries lowered the fees for real estate and agricultural land transactions in rural areas to more reasonable levels, allowing the development of the real estate market to continue unimpeded.

Aside from the high fees, notaries also participated in illegal activities, violating norms and standards for their personal economic benefit. The BA&H team learned of many illegal actions committed by notaries from buyers and sellers of real estate, and reported these actions to the Ministry of Economy and Reforms. The illegal activities in which the notaries were regularly engaged included, but were not limited to, the following.

- Notaries, under the protection of the Ministry of Justice, established a requirement that parties to transactions purchase "forgery-proof" paper for the notarization of contracts.

Initially, the notaries insisted that all contracts be drafted on the forgery-proof paper, but they eventually insisted only on use of the paper for their legal attestations. Most notaries refused to notarize real estate documents unless the parties to the transaction agreed to pay a charge of 11 MDL per sheet for this paper, in addition to the standard one percent notary fee. The Law on Notaries does not authorize this procedure, nor was a charge for the use of forgery-proof paper mentioned in the original notary fee schedule jointly issued by an Order of the Ministry of Justice and the Ministry of Finance. In fact, no legal basis exists for a notary to insist upon using forgery-proof paper when notarizing transactions or to charge the parties for this paper. Moreover, there was no need for such paper, since the notaries signed and sealed each copy of the real estate contract in a number of originals, with the originals being retained by the notary, the Territorial Cadastre Office, and the purchaser. Use of such paper only raised costs to citizens and put money in the pockets of notaries and printers. To object to this outrageous procedure, the donor agencies (IMF, World Bank, and USAID) sent a joint letter of complaint to the Prime Minister in September 1999 (please see **Appendix 26** for a copy of the letter and a memo on the problems with notaries sent to the IMF and World Bank to gain their support). Eventually, sustained pressure on the notaries eliminated widespread use of the forgery-proof paper in real estate transactions.

- Some notaries charged each party to a real estate transaction 35 MDL (for a total of 70 MDL) as an "application fee" before examining documents, in addition to the normal notarization fee. This application fee was not contemplated by any law or regulation and only enriched corrupt notaries.
- Some notaries refused to accept contracts drafted by attorneys representing parties to real estate transactions, in violation of the Law on Notaries. These notaries would only agree to notarize a contract if they had drafted the document themselves; the notaries would then proceed to charge a fee for preparation of the contract.
- Some notaries refused to notarize real estate contracts unless the parties presented a "valuation certificate" from the Territorial Cadastre Office. The Law on Normative Price, which clearly states that the parties to a real estate transaction may sell privately owned land at a freely negotiated price, does not require such certificates. Notaries typically established this requirement after colluding with corrupt employees of the Territorial Cadastre Offices.

These obstructions, and others too numerous to mention here, were all designed to enrich corrupt notaries. The result was an increase in transaction costs that dissuaded individuals from purchasing and selling real estate, and slowed the development of the private real estate market.

b) Territorial Cadastre Offices. BA&H consultants assisting with private real estate transactions encountered problems registering rights at the Territorial Cadastre Offices. Moldovan law requires that all rights to land and real estate which are transferred as part of a transaction be registered in the Real Estate Registry maintained by the Territorial Cadastre Office within three months of the transaction. This requirement gave Cadastre Office employees authority over real estate transactions, which resulted in various problems as that authority was abused. The most common problem was overcharging individuals registering real estate rights. Few people were aware of the fee schedule approved by the Government, allowing Cadastre

Office employees to overcharge or to charge fees for non-existent services. BA&H consultants reported that individuals registering rights to real estate would frequently be charged two to three times the approved fee. BA&H consultants would often argue with the Cadastre Office employees on behalf of the parties to a transaction until the Cadastre Office employees charged the proper fee.

A second problem involved Cadastre Office employees illegally issuing land titles when registering private transactions. Under Moldovan law, a land title is unnecessary once the rights to real estate are registered in the Real Estate Registry. Unscrupulous Cadastre Office employees took advantage of ignorant purchasers, insisting that a new land title be prepared in the purchaser's name, all for an extra fee. In addition to being illegal, the practice undermined the integrity and credibility of the Territorial Cadastre Office and its records.

Finally, Cadastre Office employees often informed real estate sellers that they needed to purchase a valuation certificate from the Cadastre Office prior to selling their parcel. These certificates listed the normative price of the land being sold, a value bearing no relationship to the market value of the land. The Cadastre Office employees colluded with local notaries, who refused to notarize real estate documents without the valuation certificate, forcing unsuspecting sellers to pay extra for a document not required by law.

4. The Land Market

In spite of the problems, since October 1998, the BA&H real estate consultants assisted private citizens and enterprises in concluding 3,506 real estate transactions. The table below shows the total number of private transactions that BA&H consultants (as project staff and as private firms) helped conclude. The rapidly growing number of transactions signifies the beginning of the market for private agricultural land and residential real estate.

Type of Land	No. of Transactions	No of Parcels
Agricultural Land	1,989	2,698
Residential Land	1,483	1,509
Enterprise Land	25	27
Agricultural Parcel Exchanges	9	37
Totals	3,506	4,271

A key factor to note is that the market for agricultural land has developed most rapidly in those areas of Moldova where farmers have access to cash output markets. For example, an active market for private agricultural land quickly developed in the North because farmers could sell their produce for cash in nearby Ukraine. Cash output markets also exist in the center of the country in Chisinau and Orhei, helping account for active land markets near those cities. In contrast, areas in the West and far South of Moldova, near the Romanian border, have low demand for agricultural land largely due to the lack of nearby cash output markets. The Romanian market is not viable for most Moldovans because of the similarity in climate, crops grown, and soil conditions. Romanian farm operations also seem to be more advanced than their Moldovan counterparts, making it difficult for Moldovans to compete with the Romanians in

terms of quality or price. The following table of average prices for agricultural land best shows the level of land market development in different parts of the country. A higher average price for one hectare of agricultural land suggests higher demand for land and a more developed regional land market.

Region of Moldova	Average Price of Agricultural Land per hectare
North	5,081 MDL
South	3,160* MDL
Center	2,519 MDL

* The average price of land in the South is increased dramatically by the selling price of agricultural land in Tighina judet, located South East of Chisinau near the Ukrainian and Transnistrian borders.

5. Lessons Learned

One of the main lessons learned by BA&H consultants developing the private real estate market is that market activity would not exist without public education. Territorial Cadastre Office officials and notaries regularly misinformed new landowners of their rights and obligations, and of the procedures for selling real estate. Farm leaders and corrupt mayors often told new landowners that Moldovan law did not allow them to sell their land. Too often, BA&H consultants needed to explain to individuals who recently became private landowners that they had the right to sell their land at a freely negotiated price, and not at some normative price set by the State. BA&H consultants concentrated on educating the public, and on clarifying or refuting the rumors that confused the facts about private real estate ownership and sales.

Another lesson is that active assistance to parties concluding real estate transactions is needed to promote activity in the real estate market. As with enterprise land sales, many sellers did not know the law, and had no resources to prepare for transactions. BA&H consultants assisted these sellers with preparation of contracts and documents necessary to close the transaction; transportation to and from the closing; and, negotiations with notaries on fees. Without assistance, many sellers and buyers would not know how to formalize the sale of real estate or how to protect their rights by registering the transaction in the Real Estate Registries without being overcharged or cheated by Territorial Cadastre Office employees.

Commission-based compensation played a critical role in BA&H's success in developing the private real estate market. Consultant compensation was tied to the successful conclusion of real estate transactions, including the legal registration of the new owner's rights. The BA&H team verified that transaction documents had been properly formulated and registered prior to paying commission fees to its consultants. The compensation system conditioned consultants for their transition to the market as private brokers, motivating them to hustle for clients and actively promote private real estate sales. The system also focused consultants on customer service and on ethical representation of clients.

Finally, BA&H recognized that cash is scarce in Moldova and that the general public needs access to affordable medium-term credit for the purchase of land and real estate. Without credit,

consolidation of small agricultural land parcels is difficult, and the transformation of the agricultural sector from an inefficient centrally planned economy to an efficient market-driven one will be delayed. Therefore, it is critical that mortgage credit be made available as part of land market development activities.

6. Recommendations

The BA&H team makes the following recommendations for continued USAID activities related to or resulting from its activities assisting the development of a market for privately owned real estate in Moldova.

- USAID should continue supporting the private real estate brokerage firms established by the BA&H team in October 1999. The firms are the basis for the private sector real estate services market. The firms need continued financial and logistical support until a critical mass of buyers and sellers of private real estate emerges in Moldova, allowing the firms to generate enough revenue from commission fees to become self-sustaining. In addition, support for the private firms will protect the interests of buyers and sellers of real estate in the fledgling market.
- USAID should promote market efficiency in land transactions, including sales, exchanges, and leases, by helping to form independent associations of brokers and other real estate service providers. These associations will be able to collectively promote their interests, and the interests of their clients, by supporting continued public education on the rights of real estate owners and the benefits of a developed real estate market. The associations will also provide an indigenous source of support, advice, and advocacy for further legal and regulatory reform.
- USAID should promote additional simplification of processes and lowering of transaction costs by working on the legal and regulatory framework governing private transactions and the institutions that affect the costs of those transactions. Specifically, USAID can help establish independent watchdog groups that will lobby to keep registration fees and notary fees low. USAID-sponsored activities can defend against proposed requirements for private parties to obtain unnecessary documents as a precondition to selling their land and real estate. For example, the Ministry of Agriculture and other Moldovan government agencies have proposed a mandate for sellers to obtain soil quality certificates before selling agricultural land; to obtain valuation certificates along with an excerpt of ownership from the Territorial Cadastre Office; and, to have an appraisal completed by an employee of the Territorial Cadastre Office prior to selling their real estate. These types of requirements must be avoided because they unnecessarily raise transaction costs and serve only to line the pockets of bureaucrats.

F. Mortgage Credit Programs

During the Project, BA&H established two pilot mortgage credit programs in cooperation with the Citizens Network for Foreign Affairs (CNFA). BA&H believed the mortgage programs to be vital and necessary tools to expand and accelerate the development of the real estate market, introducing needed liquidity for the purchase of land into a cash-poor society. One program worked with commercial banks and the other with rural Savings and Credit Associations (SCA's). The two programs used donor funds to introduce the concept of mortgage credit to Moldovan financial institutions and to motivate financial institutions to make medium-term mortgage loans that they otherwise would not make. Both programs focused on providing credit for the purchase of land. BA&H educated financial institutions and land purchasers on the procedures involved in mortgage lending and on the documentation necessary to evaluate credit risk and collateral value, so that mortgage loans could be made with a lower risk of default.

As the number of landowners increased in 1999, the demand for purchase and sale of privately owned real estate (especially agricultural land) grew. Buyers of land could purchase a few hectares, usually by borrowing from relatives and friends, but the scarcity of cash made it nearly impossible for farmers to purchase many parcels to consolidate land into large fields which could be more efficiently farmed, even when they identified willing sellers. BA&H recognized the need for liquidity and was determined to make mortgage credit available to the developing market. BA&H lawyers immediately analyzed the relevant laws and determined that the pledge of land was possible under the Law on Pledge. The mechanisms of the Law on Pledge, while not well defined, were sufficient for BA&H to begin working with commercial banks to promote mortgage lending. In particular, BA&H advocated lending for the purchase of land, whereby the land being purchased is used as collateral for the loan (a common practice in developed countries known as "purchase money mortgage"). The team worked through the Ministry of Economy and Reforms to improve and simplify the legal framework, and convinced the International Monetary Fund to include amendments to the Law on Pledge as a conditionality for continued lending to the Moldovan Government. BA&H drafted these amendments, which included two key clauses. The first clearly allowed simultaneous conclusion of both sale and purchase agreements and mortgage contracts (a procedural point that was previously unclear). The second defined more precisely a foreclosure procedure on land pledged as collateral for a loan. The Ministry of Economy and Reforms quickly pushed the amendments through the Government and Parliament in 1999 to meet the IMF's condition, promoting the development of the mortgage market.

1. Commercial Bank Mortgage Program

Procedure aside, the most significant obstacle to starting a mortgage program in Moldova was the unwillingness of commercial banks to make a loan for longer than one year at a rate that land purchasers would consider reasonable. A typical bank loan was for a term of 9 to 12 months at an interest rate of 35 to 40 percent per annum. Such loans were unaffordable, even for land purchasers who desperately needed access to cash. BA&H decided that a pilot mortgage program was needed to make mortgage loans affordable to land purchasers and to show banks that such loans were worth making. Together, BA&H and CNFA proposed the Commercial Bank Mortgage Program. Under this program, CNFA would offer funds from the sale of excess United States Department of Agriculture (USDA) commodities under the Food for Progress

Program to commercial banks for the purpose of making mortgage loans. BA&H would supply technical assistance to both the commercial banks and the borrowers (farmers seeking to purchase land), with the goal of developing standard mortgage loan procedures and practices using a Western model of mortgage credit. USAID, USDA, and the United States Embassy in Moldova all approved the idea in early 1999. CNFA then signed a contract with one commercial bank (Moldova Agroindbank), under which it funded up to 50 percent of each loan (up to a maximum 20,000 USD) made by the bank as part of the program. CNFA accepted a lower rate of return on its portion of each loan than that charged by the bank, “buying down” the interest rate to 27 percent, thereby making loans more affordable to borrowers. The risk-sharing arrangement also induced the bank to extend the loan term to between three and five years.

In April 1999, Agroindbank made the first mortgage loan under the program, lending 5,000 MDL (approximately \$500) to a farmer who purchased 1.5 hectares of land in Hincesti region. Unfortunately, when making the loan and concluding the mortgage, the Hincesti affiliate of Agroindbank did not follow the procedure agreed to between BA&H and Agroindbank. The transaction was not a purchase money mortgage, which caused BA&H to realize that Agroindbank was unlikely to cooperate fully in implementing the program.

BA&H then approached CNFA about working with a second commercial bank, keeping the program’s focus on developing purchase money mortgages. After meeting with several banks to explain the program, the contractors agreed to work with FinCom Bank and structured a program that would work only on purchase money mortgages. CNFA agreed with FinCom Bank to fund loans on terms identical to the Agroindbank program, and BA&H agreed to provide technical assistance to the bank and the borrowers. The first purchase money mortgage loan in Moldova was made in August 1999 to a farmer in Floresti region who received 20,000 USD to purchase 44 hectares of land. This success led the BA&H team to believe that the market for mortgage credit could rapidly expand. BA&H expanded its technical assistance role by providing an expatriate mortgage credit advisor to work exclusively with FinCom Bank to develop Western mortgage loan practices, including loan evaluation procedures, loan processing procedures, standard loan closing documentation, and loan servicing procedures. By January 2000, the Commercial Bank Mortgage Program at FinCom Bank had made five loans for the purchase of 174 hectares of agricultural land worth over 75,000 USD.

As part of the Commercial Bank Mortgage Program, the BA&H team drafted and distributed a manual for potential mortgage borrowers explaining the basics of mortgage lending. The manual explained the documents necessary to obtain a mortgage loan from a commercial bank and the forms used when closing a mortgage loan. Please see **Appendix 27** for a copy of the manual. BA&H also helped FinCom Bank to prepare detailed instructions for loan officers on approving and closing mortgage loans, which became part of the training program for mortgage loan officers at the bank. Please see **Appendix 28** for a copy of the internal instructions. As FinCom Bank made more mortgage loans, other commercial banks began to inquire about participating in the program. Even Agroindbank contacted BA&H with a renewed interest in working to develop purchase money mortgage procedures. The interest in mortgage lending resulted in the BA&H team assisting commercial banks in making 30 loans worth 274,000 USD for the purchase of 360 hectares of agricultural land by December 31, 2000.

One of the BA&H team's main problems in implementing the Commercial Bank Mortgage Program was simultaneous conclusion of the sale and purchase contract and the mortgage agreement. Under existing practice at the outset of the program, the banks claimed that a mortgage agreement could not be concluded until the borrower was registered as the owner of the real estate. Registration of the real estate ownership rights could only occur after the sale and purchase contract was notarized, inherently prohibiting the simultaneous conclusion of the sale contract and the mortgage agreement. Commercial banks refused to challenge notaries with the 1999 amendments to the Law on Pledge that specifically allowed simultaneous conclusion of these two documents. The procedure caused delays in concluding the mortgage agreement, making the seller of land wait unnecessarily to get his or her proceeds from the sale (no bank would distribute proceeds without a registered mortgage agreement). To close mortgage transactions, BA&H consultants had to reassure suspicious sellers that they would get paid by the bank as soon as the mortgage was registered. The problem with the notarization of documents was not solved in practice until the rural Savings and Credit Associations agreed to challenge the notaries with the 1999 amendments to the Law on Pledge (see below). Moreover, Territorial Cadastre Offices frequently delayed the registration of mortgage agreements without cause, further extending the period of time the seller would have to wait for his or her proceeds. BA&H finally complained to the National Cadastre Agency, which issued an order to accelerate registration of mortgages in purchase money transactions.

2. Rural Savings and Credit Association Mortgage Program

In May 2000, the BA&H team, in cooperation with CNFA and the Rural Finance Corporation (parent organization of the rural Savings and Credit Associations), started a second mortgage program with the purpose of making small loans to farmers seeking to purchase one to five hectares of land. BA&H hoped that the program could help small farmers establish a verifiable and documented credit history, which they could use to "graduate" from unsecured "micro-loans" to larger commercial bank credits. Borrowers were typically established farmers that cultivated high value crops and had access to cash outlet markets. They had usually been leasing in land and wished to either expand their holdings or purchase the leased land for perennial plantings.

BA&H and the Rural Finance Corporation selected six Savings and Credit Associations (SCA's) for the program after conducting a mortgage seminar and administering a qualification exam to SCA officers in April 2000. Using funds from excess USDA commodities, CNFA created a seed fund of 20,000 USD for the Rural Finance Corporation to "on-lend" to SCA's selected for the program. Borrowers typically received loans of less than 2,500 USD for a three-year period at 20 percent per annum for the purchase of one to five hectares of land. Under the program, BA&H trained SCA board members and loan officers on the principles of mortgage lending for the purchase of agricultural land. The training included instruction on loan evaluation; loan documentation; legal requirements and registration of land rights; and, loan closing procedures. BA&H consultants also worked with SCA loan officers on actual loan files, teaching fundamental loan concepts and the loan process. BA&H consultants worked with potential borrowers, helping them to prepare business plans and gather financial documents necessary for loan evaluation and approval by the SCA board.

BA&H fully understood the danger in making medium-term secured loans available through the SCA's. Before the mortgage program began, the poorly capitalized SCA's had made only unsecured seasonal loans no greater than 500 USD in value. Bad mortgage loans of a larger amount might threaten the viability of the SCA and jeopardize the capital contribution of its members, mainly poor villagers and small farmers. The inexperience of SCA boards required BA&H consultants to spend many hours teaching the fundamentals of secured credit and mortgage lending. BA&H hired additional consultants and brought a Rural Finance Corporation employee onto its team to provide adequate training for the six SCA's in the program. The consultants were required to travel daily to the SCA's to provide training and on-site consultations regarding specific loans with loan officers and board members.

As a result of its hands-on work, the BA&H team assisted the six SCA's participating in the Rural Savings and Credit Association Mortgage Program to approve 31 loans totaling 43,000 USD for the purchase of 100 hectares of agricultural land as of December 31, 2000. The BA&H team prepared a comprehensive mortgage credit manual that includes chapters on all aspects of mortgage lending, from the initial borrower interview, through loan evaluation and closing, to loan servicing and collection. The manual also has sample forms and a sample mortgage loan policy that any SCA can adopt before initiating mortgage activities. A copy of the manual is included as **Appendix 29**.

3. Lessons Learned.

The Commercial Bank Mortgage Program proved two fundamental points. First, banks could conclude mortgage agreements and accept land as collateral. The procedures, while rudimentary and often cumbersome, were functional. Second, farmers were willing to pledge land as collateral and to make payments on loans that gave them capital to invest in their land and farming operations. With access to bank credits on reasonable terms, most farmers believed that productive and profitable farming on a commercial scale was possible in Moldova.

Additionally, the BA&H team recognized that commercial banks are not willing to make small loans to farmers for the purchase of land. Small loans are not profitable for banks, which need to invest substantial time and effort to investigate each borrower and the land being purchased. Furthermore, the level of effort needed to properly evaluate and monitor the performance of small loans is virtually identical to the level of effort needed to evaluate and monitor large loans, making large loans more profitable than small loans due to economies of scale. Commercial banks continue to worry about their ability to foreclose on land in case of default. The foreclosure procedure in Moldova remains poorly defined and ill-conceived, needing substantial revision to make the procedures efficient. Finally, commercial banks need to revise internal procedures to eliminate duplicative approvals and to give loan officers approval authority on loans of defined amounts. All loans made under the mortgage program proceeded through a long and tedious approval process, requiring approval of numerous bank officials before the bank made the loan. For example, at FinCom Bank, the loan officer, the credit department manager, and the entire credit council of the bank had to approve every loan, resulting in a cumbersome process that needlessly delayed the closing of loans.

In implementing the Rural Savings and Credit Association Mortgage Program, the BA&H team proved that mortgage lending is possible at the local level through the SCA's. With intensive technical assistance, the inexperienced SCA boards and loan officers are capable of learning the basics of mortgage credit and administering a secured loan program. In fact, the SCA's proved more progressive than the commercial banks in Moldova, working closely with the BA&H team to complete the first transaction in which the sale and purchase contract and the mortgage agreement were concluded and notarized simultaneously. The program also proved that a willing and able class of small farmer exists in Moldova. These individuals are dynamic and aggressive, and represent the future of Moldovan agriculture. They are willing to take risks to achieve positive results, so long as they have access to credit on reasonable terms and to technical assistance that teaches them to responsibly expand their farming operations and become more efficient and profitable.

4. Recommendations

The BA&H team makes the following recommendations for continued USAID activities related to or resulting from its mortgage lending activities in Moldova.

- To truly test the ability of commercial banks and rural Savings and Credit Associations to make mortgage loans, additional funding to expand the program is needed. Very few farmers have been able to access the limited amount of affordable credit available under the pilot mortgage programs. Increased funding will permit the programs to expand their geographic reach, making loans available in all areas of the country. In particular, the Commercial Bank Mortgage Program should expand to include another two banks, thereby creating greater competition in the mortgage-lending market and ultimately decreasing the costs of these loans to borrowers. The Rural Savings and Credit Association Mortgage Program should expand its geographic reach by increasing the number of SCA's with which USAID consultants work to teach mortgage lending.
- Both commercial banks and SCA's need assistance in developing loan-monitoring programs. Merely making the loan does not guarantee repayment. USAID consultants should help banks and SCA's to implement sound monitoring practices that credit officers follow strictly. In addition to loan monitoring, USAID consultants should also provide assistance on work-out strategies for problem loans, helping banks and SCA's establish resolution strategies when active monitoring cannot prevent a loan from going into default.
- Foreclosure procedures continue to be a worrisome issue. Legal initiatives should expand on the basic foreclosure provisions included in the 1999 amendments to the Law on Pledge. USAID consultants should work together with the commercial banks, the National Bank of Moldova, other financial institutions, and organizations with an interest in mortgage lending to lobby for amendments that make foreclosure procedures more equitable and less cumbersome to apply.
- Mortgage procedures and documentation need to be standardized in order to promote the development of the secondary mortgage market. While the number of mortgage transactions needs to increase substantially for a secondary market in mortgages to appear in Moldova, no

investors will ever participate in a secondary market by purchasing mortgages or mortgage-backed securities unless they have confidence in the evaluation standards of the lender and see the use of uniform procedures and documentation. Work with commercial banks and the Banker's Association should promote this type of standardization.

G. Land Issues Related to Energy Sector Privatization

USAID, at the initiative of its electrical energy contractor Deloitte Touche Tohmatsu, asked the BA&H team to prepare a comprehensive analysis of the legal requirements and issues related to the privatization and use of land associated with the energy sector. BA&H's report focused specifically on the land rights associated with the five energy distribution companies that the Government offered as part of its energy privatization tender. USAID also asked BA&H to assist the Department of Privatization in preparing "land use titles" to provide potential investors with evidence of existing rights to land associated with the energy sector companies.

1. Legal Issues Report

In 1999, USAID began assisting the Moldovan Government and the Department of Privatization in privatizing the energy distribution companies. Since BA&H was the only contractor in Moldova specifically focused on land privatization and land-related issues, Deloitte Touche Tohmatsu and USAID asked for the BA&H team's legal assistance and expertise in preparing a report on land issues related to energy sector privatization. This report was to be distributed to potential strategic investors in the energy sector. USAID intended that the report would alert investors to the major issues regarding land and would prompt investors to conduct formal due diligence on those issues. BA&H conducted an extensive review of the Moldovan electrical energy laws and regulations as they related to the use and privatization of land associated with the five energy distribution companies. The BA&H report detailed the existence of documentation on all land parcels currently used by the companies. Land parcel documentation is necessary to privatize the land associated with any enterprise, and absence of that documentation could substantially delay any land privatization efforts. The report addressed issues related to easements for power lines and the protection of existing easements under Moldovan law. Finally, the report presented strategies for the continued and uninterrupted use of the land associated with the distribution companies. The BA&H report recommended that a strategic investor make land privatization a precondition to the sale of the companies, and that the investor use an escrow account and escrowee to accomplish this goal.

BA&H submitted the final report to USAID and the Moldovan Government in October 1999. A copy of the report, attached as **Appendix 30**, was made available to strategic investors participating in the tender to privatize the distribution companies. Deloitte Touche Tohmatsu also placed a copy of the report in the energy privatization document library that it maintained for strategic investors and interested parties.

2. Work to Prepare Land Use Titles

In April 2000, as a result of BA&H's preparation of the land issues report, Deloitte Touche Tohmatsu and USAID asked BA&H to assist the Department of Privatization in preparing land use titles for 121 parcels of land associated with the energy distribution companies, generation companies, and thermal heat units. The Department of Privatization intended to give the titles to the strategic investor as clear evidence of the right of the energy enterprises to use (and in the future to privatize) the parcels.

During this process, the BA&H team encountered substantial resistance from the Chisinau and Balti primarias. Neither administration was keen to have USAID pay private surveyors to prepare land use titles, preferring that USAID pay city surveyors to conduct this work. BA&H knew from past experience that hiring city surveyors in Chisinau and Balti would result in substantial delays and in the payment of extremely high fees for the completion of work. As a result, BA&H hired private surveyors and relied on assistance from the Moldovan Vice Prime Minister to pressure the mayors of Chisinau and Balti to sign the land use titles for parcels in these cities. In the end, the BA&H team prepared 62 land use titles, but was unable to prepare 59 titles for parcels in Chisinau and Balti. Several copies of land use titles prepared by the BA&H team for energy sector enterprises are attached in **Appendix 31**.

3. Lessons Learned

BA&H's work on energy sector privatization proved that active Government support for donor program activities is necessary to achieve a goal. Because the Government of Moldova failed to exert the proper pressure on the mayors of Chisinau and Balti, BA&H was unable to prepare land use titles for almost half of the associated land parcels. As time progressed in 2000, both the Government and Parliament showed lackluster support for privatizing the energy companies, resulting in continued delays of tender deadlines and the appearance of an unwillingness on the part of both to follow through with privatization. Without the true desire of high-level Government officials to accomplish established goals (like privatization of the energy sector), it is unlikely that donors can force reform to occur.

4. Recommendations

The BA&H team makes the following recommendations for continued USAID activities related to or resulting from its activities on energy sector privatization in Moldova.

- USAID should reevaluate its commitment to supporting energy sector privatization to determine whether the Moldovan Government truly intends to sell the energy distribution, generation, and thermal heat companies through privatization tenders. Activities related to preparing land use titles associated with these companies should be stopped until USAID gets firm commitments from the Moldovan Government that the privatization tenders will go forward, and that the Government will push for political resolution of the outstanding issues.

H. “Farmer’s Hour” Publication

The “Farmer’s Hour” newsletter is a monthly publication that prints information, in the form of articles, public service announcements, and advertisements, relevant to new landowners, farmers, agribusiness entrepreneurs, and local officials. BA&H established “Farmer’s Hour” to provide rural areas that are isolated from Chisinau with regular and reliable information.

In December 1997, BA&H first printed and distributed a few thousand copies of a monthly newsletter named “Land Markets,” the predecessor to “Farmer’s Hour,” in an effort to raise public knowledge of, and interest in, the development of both the rural and urban land markets. By September 1998, BA&H was printing 5,000 copies of the newsletter each month. Articles focused on informing new owners of their land rights; their ability to sell and lease out land; and, their obligations as new landowners. The newsletter publishing team regularly reported on the start-up and progress of the National Land Program; printed interviews with high-level politicians who supported the privatization process; printed articles that explained the land privatization process; and, covered titling ceremonies.

In late 1999, the popularity of the newsletter grew rapidly, and more individual landowners began to request copies of the publication. The increase in demand caused BA&H to begin delivering the newsletter directly to readers (at no charge) using a network of voluntary deliverymen in over 150 villages throughout Moldova. In December 1999, BA&H decided to expand the newsletter’s reach, making it a national publication focused on rural land and agricultural issues. In May 2000, the publication changed its name to “Farmer’s Hour” to reflect its new focus on issues specifically related to the agricultural and rural communities. “Farmer’s Hour” continued to attract new readers and increased its circulation from 5,000 to 30,000 copies by September 2000. Over the same period, the base of individual subscribers (rural villagers who received “Farmer’s Hour” free of charge at their homes via the network of voluntary deliverymen) had increased from 1,000 to 23,000. The success of the publication was evident from the volume of letters received from readers, who mailed in between 15 and 25 letters each day praising its contents. English-language copies of some of the monthly newsletters are included in **Appendix 32**.

1. Need for Public Education

The “Farmer’s Hour” publication proved successful because it filled the huge void in information available to the rural public. Regular shortages of electricity, the lack of telephones, and the distance of many village homes from major towns and from Chisinau left rural inhabitants isolated and without access to regular and reliable information. The BA&H team quickly noticed that the lack of reliable information was a common factor found in cases of privatization delays and abuses of new landowners’ rights.

The agricultural community and rural population needed reliable and accurate information on legal rights, economic issues, financial and credit issues, and farming technology. “Farmer’s Hour” prints regular columns that address each of these issues. The monthly legal advisor column is written by a staff attorney who researches and writes about legal issues of importance to new landowners, and answers questions sent in by readers. The financial and credit column

discusses the existence of credit programs for land and equipment purchases, and explains business planning and accounting. The economic column discusses issues such as taxation and Government subsidy programs, and explains how an individual can best take advantage of economic benefits. Finally, the technical farming column, written each month by various agricultural specialists, explains specific farming issues to help farmers increase productivity, fight pests, and care for their crops. “Farmer’s Hour” also regularly prints “Moldovan Success Stories,” which are interviews with new farmers that have grabbed the opportunity presented by land privatization and have become successful farmers and agribusiness entrepreneurs. Interviewees explain in their own words how they succeeded, and what it takes for others to succeed and find prosperity outside the collective farm structure. These articles encourage new farmers and give them hope for prosperity. Many readers comment that the success stories are some of the best articles printed in “Farmer’s Hour.” Finally, each month “Farmer’s Hour” prints general news and public information, human interest stories, a cultural piece, a schedule of coming events related to agriculture, and a list of agricultural support organizations and their contact coordinates.

Farmers need information on outlet markets, suppliers, equipment manufacturers, and banks that offer credit. “Farmer’s Hour” accepts paid advertising by businesses and individuals selling or trading agricultural products and crops, and includes a four-page advertising insert called “Land Markets” (keeping the old name of the newsletter) with each monthly edition of the “Farmer’s Hour,” providing a forum for traders, farmers, and businesses.

“Farmer’s Hour” also co-sponsors the USAID project web site, maintained in both Romanian and English. The website at www.moldovaland.net.md offers those with access to the Internet free downloads of useful publications, contract forms, and informational manuals. “Farmer’s Hour” also posts the contents of its monthly publication on the website.

2. Self-Sustainability

BA&H prepared “Farmer’s Hour” for self-sustainability to ensure that the publication could survive after USAID funding ceased. In January 2000, BA&H hired a publisher to ensure that “Farmer’s Hour” was printed in a timely manner and ran like a business. The publisher formalized the legal structure of the publication, registering it as an independent Moldovan periodical in August 2000.

The publisher also initiated revenue-generating activities to cover the production costs of “Farmer’s Hour.” The team prepared a comprehensive business plan (see **Appendix 33**) with financial projections for advertising revenues, as well as revenues from long-term subscriptions and open-market sales of the publication. “Farmer’s Hour” began accepting paid advertisements in June 2000 and has regular monthly advertisers (see **Appendix 34** for advertising information). It has a subscriber base of 1,500 readers who have each paid 12 MDL in advance for a 12-month subscription beginning in January 2001. Finally, the team began selling the publication at rural kiosks in September 2000, which generates approximately 5,000 MDL each month for “Farmer’s Hour.” These revenues help cover the costs of the publication and reduce the amount of money needed from outside sources and donor organizations. To cover remaining costs, BA&H worked

closely with “Farmer’s Hour” administrative staff on grant proposal writing and fund raising techniques.

Finally, the “Farmer’s Hour” staff began an intense marketing and promotion campaign in 2000 to make the target population and general public aware of the publication and its contents. The team attended national media events; held press conferences; sponsored booths at national exhibitions and at local fairs; gave promotional copies of the publication to potential subscribers; and, worked with other donor projects (e.g., EU-TACIS AgroInform centers, CNFA Farm Stores, etc.) to make “Farmer’s Hour” a widely recognized and regularly consulted source of neutral information to the agricultural and rural communities. The dramatic increase in circulation and demand for the publication over the last six months of 2000 showed that the marketing campaign was working. Samples of “Farmer’s Hour” marketing and promotional materials are provided in **Appendix 35**.

3. Lessons Learned

BA&H believes that a concerted effort to generate public support for market-oriented reforms is absolutely necessary in any development project. Support must manifest itself at both the local and national level. Local support is generated only by teaching the public about the reforms and regularly stressing the benefits of such reforms. “Farmer’s Hour” regularly provided individuals at the grass-roots level with vital information concerning reforms and privatization. The publication showed rural villagers that they had the power to stop bureaucrats from obstructing privatization and the development of the land market. For Moldova, the “Farmer’s Hour” publication was the best tool to convey information on reforms to both the rural population and government decision-makers.

4. Recommendations

The BA&H team makes the following recommendations for continued USAID activities related to or resulting from its activities in Moldova with the “Farmer’s Hour” publication.

- USAID should continue to fund the publication of “Farmer’s Hour” for another 12 months. “Farmer’s Hour” is the only source of reliable information to the rural sector, and it is beginning to become self-sustainable through advertising revenues, open sales, and long-term subscriptions. The staff needs additional training in the operation of a publication, as well as in the sale and marketing of the publication. Additionally, the staff needs technical assistance on fund raising and grant proposal writing to find funding during periods when sales revenues do not cover publication expenses.
- USAID should include a public education/publicity component in every large project. Each project administration team is clearly best suited to determine the content of its public education and publicity materials, and for that reason every large project should have a separate budget for those activities. BA&H conducted its public education activities and established the “Farmer’s Hour” publication as its main public education tool on a relatively small budget.

I. Development of Private Sector Survey and Real Estate Firms

The Project Scope of Work called for the BA&H team to develop the private real estate service sector. BA&H fulfilled that task by helping to establish some 50 new private survey firms that worked on the National Land Program and four private brokerages to assist buyers and sellers of real estate complete transactions.

1. Private Survey Firms

BA&H originally broke the monopoly over surveying held by the state survey institute, Moldgiprozem, by enticing state employees to form private survey firms. By the end of the 72-farm Roll-Out Program, BA&H had assisted ten technically competent and reliable private survey firms to emerge and operate profitably. The ten firms were the base on which BA&H began building the private real estate service sector in Moldova.

As discussed in Section V (A), implementation of the National Land Program required BA&H to employ more than ten private survey firms. In 1998, BA&H began to encourage all the competent surveyors and cadastre engineers to leave the state structure (previously the only employer of these individuals) and form private firms that could contract with the USAID project. Through word of mouth and public advertising, over 75 firms were formed and joined in the open tender process to win contracts to work on the National Land Program. The BA&H team carefully screened these firms and selected approximately 50 (including the ten firms that worked on the pilot project) to work on the National Land Program. The firms signed a contract (attached in **Appendix 36** to this report) with BA&H that clearly spelled out an eight-step work process, and made clear that all work products must meet certain minimum standards for the private firm to receive payment. Since most private firms had no capital or equipment to invest in a start-up business, BA&H offered each firm ample support and training. BA&H returned work not meeting the quality standards to the firm for corrections, which were required to be made before the firm would receive payment. Private firms quickly learned to submit high quality work to receive prompt payment. The private survey firms saw that BA&H always paid in cash and on time, unlike the state structure that frequently missed paying salaries and constantly made excuses for its failure to pay. These factors established the credibility of the BA&H team, eventually making the contracting process smooth and the relations between BA&H and the private survey firms solid and supportive.

Without the participation of the private survey firms, it is highly unlikely that much work would have been completed on the National Land Program. Such a large program could not have been undertaken using only the state survey structure. With the end of the National Land Program, many private firms have found other business. The most aggressive firms are working under World Bank contracts, with other firms creating land plans for private land purchasers. In many cases, these private firms continue to offer the surveying services required by the new real estate market.

2. Private Real Estate Brokers

In October 1999, BA&H assisted its senior enterprise land sales consultants in establishing four private real estate brokerages to serve the needs of enterprises interested in privatizing their associated land, as well as the needs of buyers and sellers of privately owned real estate. The firms received financial support from BA&H in the form of commission fees, and logistical support in the form of office space and transportation. However, BA&H increasingly stressed the importance of moving towards self-sustainability of the firms. BA&H developed a model fee agreement for the brokerages and encouraged them to sign the agreements with their clients. A copy of each fee agreement was submitted to BA&H with a brokerage's monthly billing invoices for completed transactions, providing evidence to BA&H that the firm was moving toward self-sustainability. Sample billing statements are attached as **Appendix 37**.

The brokerages fulfilled an important role in policing the private notaries and the real estate registrars at the Territorial Cadastre Offices. BA&H brokers forced notaries to charge their clients appropriate fees for their services and to accept proper standardized contracts. They argued with Cadastre Office employees, and complained to the National Cadastre Agency when registrars overcharged buyers and sellers of real estate for Real Estate Registry services. Brokers also informed new landowners of their legal rights and helped them exercise those rights during transactions. They proved to be the only entities that represent the best interests of their clients, the buyers and sellers of real estate, because the client pays their commission and is a source of referral business.

3. Commission-Based Compensation

BA&H recognized that its project staff and contractors would be best motivated by private sector philosophies, and tailored its compensation plan to reward success. BA&H paid both select members of its project staff and the private firms working with the project when they achieved their objectives. While the majority of staff received fixed daily rates for their work, enterprise land sales consultants were paid commissions for completed transactions, which initially comprised a percentage of their salaries (with the remainder comprised of low fixed daily rates) and later made up 100 percent of their compensation. Later, when BA&H helped establish the four private real estate brokerages, the contracts between BA&H and the firms specified the payment of commissions only for completed transactions. Private surveyors working on agricultural land titling were paid according to a contract for services that set out eight distinct steps, with accompanying work products defined for each step. Under the contract, a surveyor was paid a percentage of the total value of the contract for each step completed. The payments were back-loaded (higher amounts paid for later steps) to ensure that surveyors had the incentive to complete all steps under the contract, and not just the easiest steps involving land surveys.

The incentive-based compensation plan used by BA&H proved to be an innovative approach to development work. It brought key elements of the private sector into donor project work and was probably the most important factor in BA&H's success in implementing the objectives of its Scope of Work. In the past, donor projects tended to pay project staff for occupying a position rather than for achieving results. BA&H's compensation plan did otherwise; by tying project staff members' and private contractors' personal economic gain to implementation of meaningful

reforms, the compensation plan encouraged project staff and private contractors to solve problems and to become aggressive in advocating and realizing reforms.

4. Lessons Learned

The Moldova experience proved two important facts relating to market reform activities in developing countries. First, success can be best achieved by tying project staff members' and private contractors' compensation to their ability to attain specific and realistic project goals whenever possible. It is clear that a project goal must be attainable and reasonable for project staff to be motivated to work toward the goal. Once the goal is attained, project staff must be well rewarded for their efforts. Unreasonable goals will result in project staff becoming discouraged and quitting. Second, BA&H believes that involving the private sector to the largest extent possible is likely to achieve greater results than working through the public sector. Public sector employees have shown time and again that they lack initiative and incentive to implement change. Most public sector employees are more concerned about job security and a regular salary than about moving rapidly ahead with changes that may jeopardize their positions and influence. BA&H also realizes that within the public sector, corrupt practices are likely to control and obstruct any meaningful reforms. Therefore, working through the public sector should be limited only to those situations where no other alternative exists.

5. Recommendations

The BA&H team makes the following recommendations for continued USAID activities related to or resulting from its experience establishing and working with new private businesses involved in real estate services in Moldova.

- USAID should assist the private sector businesses to unite and form associations that will protect their interests against excessive Government regulation and interference. The associations can also lobby for changes to laws making it easier for the businesses to operate profitably in Moldova. For example, all private businesses in Moldova are fearful of oppressive Government taxation policies, which create a disincentive for individuals to become entrepreneurs.
- USAID should require its projects to use commission- or incentive-based compensation plans whenever possible, to ensure that donor funds are properly spent and to maximize the potential for successful implementation of project objectives.

J. Other Legal and Regulatory Initiatives

In addition to the many laws and regulations directly related to preserving the integrity and stability of the land reform process, the BA&H team worked on numerous other draft normative acts impacting landowners' rights. Some of the most important drafts on which the team worked and commented include the items described below. Sample commentaries to these and other legal initiatives are provided in **Appendix 38** to this report.

1. Amendments to Existing Land Code and Work on New Land Code

Between August and November 1998, the BA&H team worked extensively on amendments to the Land Code that would further simplify the land privatization process. The team advocated these amendments to the Vice Prime Minister during a meeting in September 1998. Shortly afterward, Parliament enacted some of the key BA&H proposals, which allowed: (i) the local land commissions to distribute physical land shares without taking into account soil fertility; (ii) private citizens to hire private surveyors to establish their land boundaries; and, (iii) land share holders to receive allocations of land without filing applications to the mayor. The Parliament also failed to enact a few other BA&H proposals that would have further simplified the land allocation process. For example, BA&H had proposed to eliminate land shares of less than 50 percent.¹⁰ Without this change in the law, BA&H surveyors had to subdivide land in very small parcels to holders of less than 50 percent land shares.

In September 2000, the National Cadastre Agency prepared a new draft Land Code, on which the BA&H legal team was invited to comment by the Ministry of Economy and Reforms and the Ministry of Agriculture. The new draft Code presented many problems typical of previous draft laws coming out of the Cadastre Agency. The team prepared negative comments focused on eliminating the "rational" land use requirements that permeate the proposed Code, and would allow the State to expropriate land from owners that did not use their land "rationally." Viewing the draft Code as unworkable, the BA&H legal team prepared its own version of a new Land Code and submitted it to the Ministry of Economy and Reforms to include as part of its negative commentary on the Cadastre Agency's document.

2. Agricultural Support Fund

In 1999, the Moldovan Parliament decided to give USD 7.5 million in seasonal grants to new private farmers in Moldova, with the money for the support fund slated to come from a World Bank loan. The World Bank Resident Representative asked BA&H to read and comment on the proposed regulation regarding distribution of the funds that was drafted by the Ministry of Agriculture. A careful review showed that the draft had numerous flaws. First, the scope of the regulation was overly broad, making it likely that collective farms would receive support, contrary to the fund's stated purpose. Second, the mechanism for distributing funds was poorly defined, allowing a large percentage of the funds to be diverted from the intended beneficiaries, or stolen outright. Finally, there was no audit control to verify that funds were distributed to the

¹⁰ When allocating land, the Land Commission may award an eligible member a land share equal to 100, 50, or less than 50 percent, based on the member's position in the collective. Generally, social sphere employees received land shares of less than 50 percent, which caused problems for surveyors when subdividing the fields of a farm during privatization.

intended beneficiaries. BA&H met with World Bank officials to advocate substantial redrafting and to propose its own detailed revisions before Parliament was scheduled to vote on the draft. However, the World Bank failed to push for the changes to the regulation. In March 2000, as predicted by BA&H, an audit report by the Moldovan Court of Accounts disclosed numerous improprieties and misallocations of support funds by Ministry of Agriculture officials.

In 2000, the Parliament again voted to establish a private farmer support fund. BA&H again gave negative comments on the draft regulation, which was essentially the same one used in 1999. However, due to strained relations between the Government and the World Bank, a loan was never made and the support fund never materialized.

3. Title VI of Tax Code – Property Tax

In 1999, USAID asked KPMG Barents to draft a property tax law to help the Government of Moldova meet an IMF conditionality, and suggested that the BA&H team provide input on the draft tax law to ensure that it did not hamper the development of the private real estate market. The BA&H team cooperated with Barents' technical advisors to develop the law until Barents' property tax advisor left Moldova in October 1999. In March 2000, when the Parliament began serious consideration of the draft law, BA&H approached Barents directly with suggestions for changing the existing draft. After a number of meetings, Barents agreed to advocate most of the changes suggested by the BA&H team, resulting in the enactment of the BA&H suggestions as part of the final law.

4. National Cadastre Agency's Real Estate Appraisal Concept

The BA&H team worked with factions in the National Cadastre Agency on the concept for appraisal of real estate in Moldova. The Cadastre Agency's idea was to define the standards for all real estate valuation and make those standards part of a law passed by Parliament. Of course, under that law, the Cadastre Agency would have been responsible for regulating the appraisers.

BA&H commented on the appraisal concept document, noting some key deficiencies. First, BA&H noted that all appraisals should be voluntary, and that no valuation certificates should be mandated for private real estate transactions. The Cadastre Agency wanted to require appraisals for every private transaction and to charge for a valuation certificate, without which a transfer of real estate rights could not be registered. Second, BA&H advocated that appraisal standards should not be established by law, but rather by a private association of real estate appraisers. The appraiser should be allowed to consider any information he or she deems relevant, since a real estate appraisal is the appraiser's estimate of market value at a given moment in time. Third, the concept of a State-defined normative price or value should be completely eliminated from any appraisals or calculation of value for real estate purposes. State bureaucrats continually insisted on the use of normative values, which bear no relation whatsoever to true market values, and merely confused citizens engaging in real estate transactions. Finally, BA&H recommended that when conducting appraisals for taxation purposes, the National Cadastre Agency should use only mass appraisal techniques. BA&H was concerned that "spot" appraisals would promote corrupt practices, whereby bribes, rather than objective standards, would determine the appraised tax value of a real estate property.

BA&H continued to work with the National Cadastre Agency drafters of the Real Estate Appraisal Concept document to resolve some of these issues. Most of the BA&H comments were eventually included in the current draft that is now being considered by the Government of Moldova, which wants to transform the concept into a law.

5. Farm Debt Laws

In 1999, Parliament and the Ministry of Finance insisted that mounting farm debts, both past and current, must be addressed as part of the break-up and privatization of the collective farms. The BA&H team worked closely with the IMF Resident Representative and EWMI's lawyers on a debt restructuring law that would resolve the problem of farm debt without slowing or stopping farm break-up or land privatization. BA&H participated in numerous meetings at which provisions of a proposed debt restructuring law were discussed. BA&H was primarily interested in ensuring that debts of collectives would not be transferred to the new private landowners as part of the privatization process. New landowners wishing to cultivate land independently needed a fresh start with which they could attempt to create a prosperous farming operation. If saddled with burdensome debts amassed over many years by the corrupt management of the collective farm, new private farmers would never survive.

As a result of the cooperative efforts of BA&H, the IMF, and EWMI, along with others in the World Bank and USAID, a comprehensive debt reform package was passed by the Parliament in two stages. First, an emergency amendment to a series of laws¹¹ was passed in November 1999 releasing "critical" property (i.e., moveable machinery and implements for farming) from creditors' claims and allowing such property to be transferred to new landowners during privatization. Second, a more comprehensive debt restructuring law was passed in 2000, establishing a process for restructuring and eliminating all historic debt of the collective farms through a system of offsetting credits and debt forgiveness.

6. Law on Servitudes

On its own initiative, the BA&H legal team began drafting a comprehensive Law on Servitudes. Currently, there is no law in Moldova that governs rights-of-way over land, yet many such rights-of-way exist in practice and need to be protected. BA&H has completed a full draft of the law and has coordinated with the National Cadastre Agency on its passage. If enacted, the law would establish the types of servitudes; how they are established and registered; and, how they are transferred or terminated.

7. Law on Expropriation

On a number of occasions, the BA&H team commented on the Law on Expropriation. The law failed to guarantee proper and fair compensation to real estate owners whose land was being expropriated, and it failed to give adequate due process to owners during the implementation of expropriation procedures. The law as drafted also failed to protect private landowners from

¹¹ The laws addressed by the amendment were: the Law on the Privatization Program for 1997-1998; the Law on Enterprise Restructuring; the Law on Bankruptcy; the Law on Collecting Taxes, Duties, and Other Payments; and, the Law on the Budget.

intrusions by the State into their private affairs by allowing central authorities to exert control over decisions regarding private land. BA&H commented negatively on each of these provisions and eventually worked with the Office of the President, which returned the law to the Parliament after the deputies passed a version that failed to correct these deficiencies. Most of the BA&H recommendations made it into the final version of the law, substantially improving the protections for Moldovan citizens' land rights.

8. Law on Peasant Farms

The BA&H team periodically worked on amendments to the Law on Peasant Farms. The most extensive work on the law was done in cooperation with the USAID-funded IRIS legal reform project, which was asked by certain Parliamentarians to review a number of amendments to the law. BA&H lawyers assisted the IRIS team in drafting a negative legal commentary on the proposed amendments, which stated that the amendments were unfounded and unnecessary. Largely as a result of the BA&H and IRIS commentary, Parliament rejected the draft amendments to the law.

9. Amendments to Government Decisions

In June 1999, the National Cadastre Agency proposed a series of amendments to important Government Decisions related to land privatization, registration, and preparation of land plans. The amendments proposed the institution of new controls over the mass privatization process and over the sale of enterprise land by requiring more complicated survey standards that would needlessly increase the cost of, and most likely delay, privatization. The BA&H team assisted the Ministry of Economy and Reforms in preparing a negative commentary on the amendments, after which the team negotiated with Cadastre Agency officials to redraft the provisions that caused problems in privatizing land. BA&H was able to include two key provisions in the amendments that protected the existing process. The first provision required the Cadastre Agency to coordinate with the Ministry of Economy and Reforms any changes to laws, regulations, and internal instructions that affected privatization of land. The second provision clarified the definition of a cadastre plan, forcing the Cadastre Agency to recognize the land plans used for enterprise land privatization and Land Arrangement Project maps used for rural land privatization as cadastre plans for purposes of legal registration. The enactment of these two amendments further stabilized the process under which all land privatization occurred in Moldova.

10. Fee Schedule for Registration Services of the Territorial Cadastre Offices

In November 1999, the BA&H team commented on a National Cadastre Agency proposal to increase the fees for registry services provided by the Territorial Cadastre Offices. The main objections concerned high fees for registration of rights and expediting fees for faster than normal registration. BA&H feared that the adoption of these expediting fees would cause registrars to create artificial backlogs to coerce citizens to pay extra fees for registration. BA&H provided negative comments for the Ministry of Economy and Reforms to submit to the Cadastre Agency, and later represented the Ministry when negotiating a compromise on fees with Cadastre Agency. As a result of BA&H's involvement, the registration fees were kept the same

and the proposed expediting fees were reduced from ten times to two times the registration fee. BA&H also negotiated a 50 percent rebate of the registration fee to the consumer if the registrar took longer than seven days to register the rights to a parcel.

11. Regulation on Formation of Real Estate Objects

Throughout 1999, the BA&H team worked with representatives of the National Cadastre Agency on the regulation that concerned the merger and subdivision of real estate parcels. The regulation was especially important for the merger and consolidation of agricultural parcels privatized during the National Land Program, and for the subdivision of enterprise parcels for resale. Due to BA&H efforts, most of the Cadastre Agency's proposals for excessive controls and duplicative approvals of new land plans were eliminated from the final version of the regulation. As it stands, the regulation is a good piece of legislation that does not overly restrict the free consolidation and subdivision of land parcels in the private real estate market.

12. Lessons Learned

The BA&H team realized that all donor projects are legally based. Beneficiaries of reform are protected only by changes to law that establish new rights and by mechanisms to implement those rights. For example, Moldovan law establishes that a Moldovan may own land; sell it at a free price; transfer it according to a defined procedure; and, protect his or her rights to that land by registering ownership in the Real Estate Registry. Consultants helped buyers and sellers of real estate realize those rights by implementing Moldovan law. During the infancy of market economies, laws remain fragile and unstable, and procedures are not well tested and accepted. Only active monitoring to prevent adverse amendments to the legal framework that governs land relations can ensure that landowners' rights are protected and that market reforms do not backslide and disappear.

The BA&H team also saw first-hand that even minor changes to the legal and regulatory framework during the period when market economies are emerging can cause extensive confusion and disruption to newly established processes. Such legal changes can stop reform and formally or informally eliminate the rights of new landowners, by creating substantial bureaucratic obstacles that impede the free exercise of those rights. Again, donors must train local attorneys to monitor all proposed legal amendments to laws and other normative acts for even minor changes that might have major impact on the legal rights of individual landowners.

13. Recommendations

The BA&H team makes the following recommendations for continued USAID activities related to or resulting from its experience working on legal and regulatory issues in Moldova.

- USAID should continue supporting legal and regulatory reform. Opponents and mid-level bureaucrats continue their attempts to reverse legal gains that protect the rights of new landowners made by the BA&H team during the last five years. For example, in September 2000, the National Cadastre Agency promoted a new draft Land Code that would re-institute and re-centralize control over land use in the hands of a few individuals, increasing the

potential for corruption and restricting the legitimate land rights of citizens. Such attacks will not cease, and are likely to increase if USAID stops its legal and regulatory monitoring activities. USAID should continue to protect the rights of new landowners until it can establish a Moldovan national organization to safeguard the rights of those landowners.

- USAID should continue support for the reform of the laws and regulations governing mortgage lending, foreclosure, and bank lending procedures. Legal reform in these areas will advance the development of the real estate market and promote the development of a secondary mortgage market that will create substantial liquidity for the purchase of land and real estate.
- USAID should ensure that all donor projects have a focus on the legal and regulatory reform that must underlie all successful development activities. All projects are based on the laws of countries in which they are being implemented, and therefore protection of the legal framework that allows reform to progress must be the top priority. The importance of the legal and regulatory framework mandates that all USAID task orders should devote a portion of the budget to legal and regulatory reform activities and provide for lawyers to be part of the project team.

VI. FUTURE ACTIVITIES

USAID should continue to assist the Government of Moldova in moving from a centrally planned economy to a market-oriented one. The development of the real estate market, where land relations between citizens are clearly defined by the law and respected by all parties, will promote investment in the agricultural economy, the sector of the economy most likely to increase gross national product and tax revenues to the Government. As investment increases, Moldovan farmers and rural inhabitants will realize an increase in their net incomes, with a corresponding increase in their standard of living and purchasing power. Moldovan citizens will begin to see the benefits of a market economy, and will begin to understand that the free market rewards individuals with initiative and independent business skills. This realization will encourage rural citizens to take a more active role in social relations, which will promote democratization of the local government power structure. Democratization will help eliminate the informal sector and the corrupt government and mafia structures that have oppressed rural inhabitants since the Soviet Union broke apart.

Specifically, USAID should focus on continued reform of the legal and regulatory environment that governs land relations and the real estate market. USAID should continue its activity to develop the real estate market and to put in place uniform and simple practices that make it easier for individuals to trade real estate, especially at this critical time when the market is in its infancy and customary practices are being established. USAID should support independent organizations that provide legal services to rural landowners, helping landowners to realize the full benefit of private ownership. USAID should support independent organizations that lobby for increased protections for landowners and the businesses that offer services in the new real estate market, freeing them from excessive government restrictions and regulation. USAID should continue to assist independent organizations that inform the general public on issues related to agriculture and the real estate market, because without public awareness and education, individuals are unable to make informed choices and exercise their rights in a free market economy and democratic society.

VII. Matrix of Lessons Learned and Recommendations

Area	Lessons Learned	Recommendations for Future USAID Activities
Agricultural Land Titling and Registration	<ul style="list-style-type: none"> • Support of local government is vital to successful implementation of reforms. • Some intended beneficiaries will not realize the full benefits of mass scale reform programs – coercion is a reality. • Contractors must be active in advocating and implementing reforms if donor projects are to be successful. • Grass roots public education is a vital component to any successful mass scale reform project. 	<ul style="list-style-type: none"> • Complete land titling and registration on farms that did not finish the National Land Program by December 2000. • Distribute prepared land titles to no less than 90 percent of the collective farm members and independent farmers that participated in the National Land Program, using local consultants to assist mayors if possible. • Support the continued development of small and medium size private firms that have emerged as a result of agricultural land privatization, preferably through a comprehensive program offering reasonably priced medium-term investment credit, addressing technological extension services, and facilitating access to input and output markets.
Mass Registration in the Real Estate Registries	<ul style="list-style-type: none"> • State agencies in the former Soviet Union are unlikely to implement reforms in an expedited manner without some external stimulus. 	<ul style="list-style-type: none"> • Extend deadlines for payment to the National Cadastre Agency and the Territorial Cadastre Offices for mass registration work in order to complete the initial mass registration of all National Land Program parcels. • Continue public education activities on the importance of mass registration and how it protects the rights of new landowners.
Legal Problem Solving Teams	<ul style="list-style-type: none"> • Legal assistance to new and prospective landowners, during and after privatization, is necessary to safeguard the rights of these individuals. • Given the imbalance of power that characterizes rural communities, legal assistance works best when it takes the form of advocacy for the rights and interests of landowners, rather than in the form of “neutral” advice offered simultaneously to landowners and those who are actively violating their rights. 	<ul style="list-style-type: none"> • Continue support for the legal Problem Solving Teams as customary practices in land relations are established over the next 12 months. • Support the creation of an association of legal rights groups that protects the legal rights of landowners and lobbies for legal and procedural changes to keep the costs of real estate transactions low and to prevent re-centralization of government control over land.

Enterprise Land Sales	<ul style="list-style-type: none"> • Commission-based compensation is an effective tool to promote reforms. • Active assistance to local authorities is necessary to successfully implement mass scale reforms. • Proper training of local consultants, in both legal and procedural aspects, promotes successful implementation of reforms. 	<ul style="list-style-type: none"> • Continue support for private brokerages established with USAID assistance. Help them to organize a national association of brokerages to safeguard their interests and those of their clients. • Implement strategic options for the acceleration of enterprise land privatization. • Continue to support legal and regulatory initiatives that safeguard the privatization process and promote acceleration of privatization. • Clarify legal ownership documents for agricultural structures so that their associated land may be privatized.
Private Land and Real Estate Sales	<ul style="list-style-type: none"> • Market for privately owned real estate would not exist without public education that informs owners of their land rights. • Consultants must actively assist buyers and sellers of real estate to complete transactions. • Commission-based compensation is an effective tool to promote the development of the real estate market. • The availability of affordable medium-term credit for the purchase of real estate increases activity in the market. 	<ul style="list-style-type: none"> • Continue support for private brokerages established with USAID assistance. • Promote market efficiency by helping private real estate firms organize national associations that cooperate to bring together buyers and sellers of real estate. • Promote the lowering of real estate transaction costs by policing the notaries and real estate registrars through independent watchdog groups and by continuing to reform the legal and regulatory framework.
Mortgage Credit Programs	<ul style="list-style-type: none"> • Commercial banks will take farmers' land as collateral for loans; farmers will pledge land for loans. • Commercial banks are unlikely to make small loans for the purchase of land to farmers. • Commercial banks worry about their ability to foreclose on land in cases of default. • Commercial banks need to simplify internal loan approval processes. • Rural Savings and Credit Associations are capable of making and administering mortgage loans to farmers. • Small farmers are able to qualify for mortgage loans for the purchase of land. 	<ul style="list-style-type: none"> • Increase the level of funding for the mortgage lending programs in Moldova, making loans available to more farmers in a wider geographic area of the country. • Develop loan monitoring programs for financial institutions making mortgage loans, and teach loan officers problem loan workout strategies. • Refine and improve legal foreclosure procedures, making it easier for financial institutions to foreclose in cases of default while respecting the due process rights of landowners. • Standardize mortgage documents and procedures to promote the development of a secondary market for mortgages and mortgage securities.

Land Issues Related to Energy Sector Privatization	<ul style="list-style-type: none"> Government support for reforms must be active and meaningful if reforms are to be implemented successfully. 	<ul style="list-style-type: none"> Stop work on energy sector privatization, including issuance of land use titles for energy companies, until the Government of Moldova reaffirms its true desire to privatize the sector.
“Farmer’s Hour” Publication	<ul style="list-style-type: none"> Effective grass-roots public education and local support for reforms is needed for successful implementation of market reforms. 	<ul style="list-style-type: none"> Continue to fund “Farmer’s Hour” and offer its staff training for an additional 12 months until the publication can become self-sustainable. Include a budget for a public education component in all large development projects.
Development of Private Sector Survey and Real Estate Firms	<ul style="list-style-type: none"> Commission-based compensation plans are an effective tool to promote market reforms. Using the private sector to the largest extent possible, rather than relying solely on public sector employees and institutions, is an effective strategy for implementing mass-scale reform projects. 	<ul style="list-style-type: none"> Assist private sector businesses to form associations that protect their common interests against excessive government interference and regulation. Require USAID contractors to use commission-based compensation whenever possible as a means to achieve meaningful results in market reform projects.
Other Legal and Regulatory Activities	<ul style="list-style-type: none"> All reform projects are legally based, and therefore require substantial legal components to place reforms on a solid base that is unlikely to be challenged. Opponents to privatization can easily set back reform through minor changes to the legal framework. 	<ul style="list-style-type: none"> Continue legal and regulatory activities to support reforms in the agricultural and real estate markets. Continue activities to reform the legal base that governs mortgage lending, foreclosure, and bank lending activities. Ensure that all USAID projects have a legal component to safeguard the market reforms implemented by the projects.